SUPREME COURT OF THE UNITED STATES.

No. 363.

THE LIVERPOOL, NEW YORK, AND PHILADELPHIA STEAMSHIP COMPANY, CLAIMANTS OF THE STEAMER CITY OF PARIS, APPELLANTS,

vs.

HENRY P. SIMMONS, JOHN RUSSELL, GEORGE SHEPHERD, H. W. GODFREY, JOHN H. ALLEN, R. C. GRACE, E. BLACKMORE, J. K. CLAYTON, AND CHARLES STEWART.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF NEW YORK.

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1 UNITED STATES OF AMERICA,
Eastern District of New York, ss:

I, Charles W. Newton, clerk of the circuit court of the United States of America for the eastern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from to , inclusive, contain a true and complete transcript of the record and proceedings had in said court in the case of the Liverpool, New York, and Philadelphia Steamship Company, claimants of the steamer City of Paris, against Henry P. Simmons et al., lib'l'ts, as the same remain of record and on file in said office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of Brooklyn, in the eastern district of New York, in the second circuit, this 30th day of November, in the year of our Lord one thousand eight hundred and sixty-eight, and of the independence of the said United States the ninety-third.

[SEAL.] CHAS. W. NEWTON, *Clerk.*

2 UNITED STATES OF AMERICA,
Eastern District of New York, ss:

I, Samuel T. Jones, clerk of the district court of the United States of America for the eastern district of New York, do hereby certify that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of Brooklyn, in the eastern district of New York, this 11th day of April, in the year of our Lord one thousand eight hundred and sixty-eight, and of the independence of the said United States the ninety-second.

[L. S.] SAMUEL T. JONES, *Clerk.*

3 At a term of the district court of the United States of America for the eastern district of New York, held at the United States court-rooms in the city of Brooklyn, on , the 17th day of May, in the year of our Lord one thousand eight hundred and sixty-six.

Present, the Honorable Charles L. Benedict, district judge.

HENRY P. SIMMONS AND OTHERS
vs.
THE STEAMER "CITY OF PARIS," her engines, &c.

The libellants file their libel against the above-named steamer, her tackle, &c., in the words and figures following, to wit:

4 To the Honorable Charles L. Benedict, judge of the district court within and for the eastern district of New York:

The libel and complaint of Henry P. Simmons, John Russel, George Shepherd, Hezekiah W. Godfrey, John H. Allen, and Robert C. Grace, on behalf of themselves and of all parties having a common right of action arising out of the collision hereinafter mentioned, (who may intervene a co-libellants or otherwise,) against the steamer "City of Paris," her engines, tackle, apparel, and furniture, and against all persons intervening for their interest therein in a cause of collision, civil and maratime, alleges and articulately propounds as follows:

First. That before and at the several times hereafter mentioned the libellants were the owners of the schooner "Percy Heilner," her tackle,

&c., and that Robert C. Grace, one of the said libellants, was the master and commander thereof.

Second. That the said schooner arrived in the port of New York on the morning of the fourteenth of April, 1866, from Philadelphia,
5 bound on a voyage to Pawtucket, Rhode Island, by the way of the Sound, having on board a large and valuable cargo consisting of one hundred and sixty-one tons of coal, which she was engaged in transporting as a common carrier on freight, and other property and effects; that upon arriving off the Battery between nine and ten o'clock of that day, finding the tide unfavorable for passing up the East river into the Sound, she stood over towards Jersey City in order to anchor and await for a favorable tide, and while endeavoring to reach a suitable and proper anchorage, being under sail and heading somewhere about west by north, the steamer "City of Paris" ran into and against the schooner, striking her upon her starboard side with great violence, and sunk her with all her cargo on board so quickly that the officers and crew were with difficulty enabled to save their lives.

Third. That the steamer was at the time going under a strong head of steam and at an improper and dangerous rate of speed through a large number of vessels, which were then and there anchored or under way without any reasonable or proper care, vigilance, or atten-
6 tion to her navigation; that she had not a sufficient or competent look-out properly stationed and attending to that duty; that she was in these and other respects so carelessly, unskillfully, and negligently navigated, that by her own fault and negligence, without slacking her speed or doing anything properly to avoid a collision, she came right down upon and against the schooner, striking her starboard side and sinking her as already stated.

Fourth. That the schooner was in the lawful pursuit of her voyage, and had a competent look-out stationed and attending to that duty, and did not alter her course in any wise to embarrass the said steamer; nor did she commit any fault whatever on her part, but, as already stated, the collision was caused solely by the carelessness, negligence, unseamanlike and improper navigation of the said steamer.

Fifth. That the said schooner and everything on board became and was totally lost; no part thereof was or has been recovered. That the value of the said schooner, with the cargo, property, and effects on
7 board thereof, including the freight pending, exceeded in value the sum of seven thousand two hundred dollars, which the owners of the said steamer have been requested to pay, but which they declined to do.

Sixth. That the said steamer is now in the port of New York, and within the admiralty and maratime jurisdition ot this honorable court.

Seventh. That all and singular the premises are true and within the jurisdiction of this honorable court. Wherefore the libellants pray for process in due form of law against the said steamer City of Paris, her engines, tackle, apparel, and furniture, and that all persons having or pretending to have any right, title, or interest therein may be cited to appear and answer all and singular the matters hereinbefore set forth and that this honorable court may pronounce for the claim aforesaid, and for such further or other relief in favor of the libellants as shall be consistant with the law and justice of the case, and to condemn the said steamer and all parties intervening for their interest therein with cost.

8 HENRY P. SIMMONS & OTHERS.

OWEN, GRAY & OWEN, *Libellants' Proctors.*

EDWARD H. OWEN, *Advocate.*

EASTERN DISTRICT OF NEW YORK, *ss:*

Henry P. Simmons, being duly sworn, says that he is one of the libellants in the foregoing libel named; that the said libel is true to the best of deponent's knowledge, information, and belief.

HENRY P. SIMMONS.

Sworn to before me, May 17th, 1866.

CHARLES W. NEWTON,
U. S. Com'r.

Endorsed: U. S. district court. Henry P. Simmons & others vs. the steamer "City of Paris," her engines, &c. Libel. Owen, Gray & Owen, proctors for libellants.
Filed May 17th, 1866.

9 District court of the United States for the eastern district of New York.

[Filed the 17th day of May, 1866.]

Stipulation for libellant's costs.—Entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court on the 17th day of May, in the year of our Lord one thousand eight hundred and sixty-six, by Henry P. Simmons, John Russel, George Shepherd, Hezekiah W. Godfrey, John H. Allen, and Robert C. Grace, against the steamer "City of Paris," her engine, tackle, apparel, &c., for the reasons and causes in the said libel mentioned, and praying that said steamer, &c., may be condemned and sold, &c., and the said libellants and Samuel S. Thorp, surety, parties hereto, hereby consenting and agreeing that in case of default or contumacy on the part of the libellants or their surety, execution may issue against their goods, chattels, and lands for the sum of two hundred and fifty dollars:

Now, therefore, it is hereby stipulated and agreed for the benefit of whom it may concern that the stipulators undersigned shall be, and each of them is, bound in the sum of two hundred and fifty dollars; conditioned that the libellants above named shall appear and answer to the cause and to interrogatories, and shall pay all such costs as shall be awarded against them by this court or, in case of appeal, by the appellate court.

HENRY P. SIMMONS.
SAMUEL S. THORP.

Taken and acknowledged this 17th day of May, 1866, before me.

CHAS. W. NEWTON,
U. S. Commissioner.

EASTERN DISTRICT OF NEW YORK, *ss:*

Samuel S. Thorp, party to the above stipulation, being duly sworn, doth depose and say that he resides in the City of New York, and that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

SAMUEL S. THORP.

Sworn to this 17th day of May, 1866, before me.

CHARLES W. NEWTON,
U. S. Commissioner.

Recorded the 17th day of May, 1866.

SAMUEL T. JONES, *Clerk.*

10 Endorsed: U. S. district court. Henry P. Simmons & others vs. the steamer "City of Paris," &c. Stipulation of libellants' costs. Owen, Grey & Owen, for libellants.
Filed May 17th, 1866.

11 (Indorsed:) Vol. . Page . Eastern district of New York United States district court. Henry P. Simmons and others vs. the steamer "City of Paris," her engines, &c. Monition ret'ble June 6th, 1866. Owen, Gray & Owen, proctor for libellants.
Filed , 186 .
I hereby depute to execute the within process.
Dated , 186 .

U. S. Marshal.

In obedience to the within monition I attached the therein described, on the day of ; and have given due notice to all persons claiming the same, that this court will on the day of , inst., (if that day should be a day of jurisdiction, if not, on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

U. S. Marshal.

Dated , 18 .

12 EASTERN DISTRICT OF NEW YORK, *ss:*

[L. S.] The President of the United States of America to the marshal of the eastern district of New York, greeting:

Whereas a libel hath been filed in the district court of the United States for the eastern district of New York, on the 17th day of May, in the year of our Lord one thousand eight hundred and sixty-six, by Henry P. Simmons, John Russel, George Shepherd, Hezekiah W. Godfrey, John H. Allen, and Robert C. Grace, against the steamer "City of Paris," her engines, tackle, apparel, &c., for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamer or vessel, her tackle, &c., may be cited in general and special to answer the premises, and all proceedings being had, that the said steamer or vessel, her tackle, &c., may, for the causes in said libel mentioned, be condemned and sold to pay the demands of the libellants.

You are therefore hereby commanded to attach the said steamer or vessel, her tackle, &c., and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the eastern district of New York, on the 6th day of June, 1866, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honorable Charles L. Benedict, judge of the said court, at the city of Brooklyn, in the eastern district of New York, this 17th

day of May, in the year of our Lord one thousand eight hundred and sixty-six, and of our independence the nineteeth.

SAMUEL T. JONES, *Clerk.*

OWEN, GRAY & OWEN,
Proctors for Libellants.

13 U. S. district court, eastern district of New York.

HENRY P. SIMMONS & OTHERS
vs.
THE STEAMER CITY OF PARIS, &c.

We hereby consent that the above-named steamer be bonded in this cause in the sum of ten thousand dollars, and that John G. Dale and Malcolm G. Heughton be accepted as secureties; and that upon giving the requisite stipulations, and complying with the rules of this court to fees, and an order be entered discharging said steamer, &c., and delivering thereof to the claimant.

OWEN, GRAY AND OWEN,
Libellant's Proctors.

I hereby appear for the claimants in the above action, and waive the service of process therein. I also consent to answer herein within two weeks from this date.

Dated May 18th, 1866.

JAMES W. GERARD, JR.,
Proc. for Claimants.

Endorsed: U. S. district court. Henry P. Simmons & others vs. the steamer "City of Paris," &c. Jas. W. Gerard, jr., proctor for claimants.

Consent on binding. Filed May 18th, 1866.

SAMUEL T. JONES, *Clerk.*

14 At a stated term of the district court of the United States of America for the eastern district of New York, held at the United States court rooms, in the city of Brooklyn, on , the 18th day of May, in the year of our Lord, one thousand eight hundred and sixty-six.

Present, the Honorable Charles L. Benedict, district judge.

HENRY P. SIMMONS, JOHN RUSSEL, GEORGE Shepherd, Hezekiah W. Godfrey, John H. Allen, & Robert C. Grace,
vs.
STEAMER "CITY OF PARIS."

Vol. Page.

And now the Liverpool, New York, and Philadelphia Steamship Company, claimants, by John G. Dale intervening as agent for the interest of the said Liverpool, New York, & Philadelphia Steamship Company, in the said steamer "City of Paris," appears before the honorable court and makes claim to the said steamer, &c., &c., as the same are attached by the marshal, under process of this court, at the instance of Henry P. Simmons; and the said John G. Dale aver that we were in possession of the said steamer at the time of the attachment thereof, and that the persons above named are the true and bona-fide owner of the said steamer, and that no other person is the owner thereof; and the said

John G. Dale the true and lawful bailee thereof, as stated. Wherefore we pray to defend accordingly.

Liverpool, New York, & Philadelphia Steamship Company,
By JOHN G. DALE, *Agent.*

JAMES W. GERARD, Jr.,
Proctor for Claimant.

15 EASTERN DISTRICT OF NEW YORK, *ss:*

John G. Dale, being duly sworn, deposes and says that he resides at No. 52 East 22d st., New York city; that he is the agent of the Liverpool, New York, & Philadelphia Steamship Company above named; that the owners of said steamer reside in England, and that this deponent is duly authorized to put in this claim in behalf of the owner of the said steamer; and that the said claim is true of the knowledge of this deponent, except as to the matters therein stated on information and belief, and as to such matters he believes it to be true.

JOHN. G. DALE.

Sworn to and subscribed this 18th day of May, A. D. 186 , before me.
CHARLES W. NEWTON,
U. S. Commissioner.

(Indorsed:) Vol. No. United States district court for the eastern district of New York. The steamer "City of Paris" ads. Henry P. Simmons et al. Jas. W. Gerard, jr., proctor for claimants. Claim of the Liverpool, N. Y. & Phild'e S. S. Company.

Filed the eighteenth day of May, 1866.
SAMUEL T. JONES, *Clerk.*

16 District court of the United States for the eastern district of New York.

[Filed the 18th day of May, 1866.]

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court on the 17th day of May, in the year of our Lord one thousand eight hundred and sixty-six, by Henry P. Simmons, &c., against the steamer "City of Paris," &c., for the reasons and causes in the said libel mentioned, and praying that said steamer may be sold and condemned, and the parties hereto, hereby consenting, that in case of default or contumacy on the part of the claimants or their sureties execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands.

And whereas, also, a claim has been filed in said cause by the Liverpool, New York, & Philadelphia Steamship Company: Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of this court or, upon an appeal, by the appellate court.

Liverpool, New York, & Philadelphia Steamship Company,
By JOHN G. DALE, *Agent.*
JOHN G. DALE.
M. G. HAUGHTON.

Taken and acknowledged this 18th day of May, 1866, before me.
CHAS. W. NEWTON,
U. S. Commissioner.

EASTERN DISTRICT OF NEW YORK, *ss:*

John G. Dale, Malcolm G. Haughton, parties to the above stipulation, being duly sworn, doth depose and say, that they resides in the State of New York; that they are worth the sum of five hundred dollars, over and above all their just debts and liabilities.

JOHN G. DALE.
M. G. HAUGHTON.

Sworn to this eighteenth day of May, 1866, before me.
CHAS. W. NEWTON,
U. S. Commissioner.

Recorded the 18th day of May, 1866.
SAMUEL T. JONES, *Clerk.*

Endorsed: U. S. district court. Henry P. Simmons vs. the steamer "City of Paris," &c. Stipulation for respondents' costs. Jas. W. Gerard, jr., proct's for claimants.

17 District court of the United States for the eastern district of New York.—In admiralty.

[Filed the 18th day of May, 1866.]

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed on the 17th day of May in the year of our Lord one thousand eight hundred and sixty-six, by Henry P. Simmons & others against the steamer "City of Paris," her engines, &c., for the reasons and causes in the said libel mentioned; and whereas the said steamer is now claimed by the Liverpool, New York, and Philadelphia Steamship Company, who have filed their claim to said steamship, which said steamship is in the custody of the marshal, under the process of this court, issued in pursuance of the prayer of said libel, and is of the agreed value of $ ten thousand dollars, as appears from a consent now on file in said court; and the parties hereto hereby consenting and agreeing, that in case of default or contumacy on the part of the claimants or the sureties, execution for the above amount, with interest thereon from this date, may issue against their goods, chattels, and lands:

Now, therefore, the condition of this stipulation is such, that if the stipulators undersigned shall at any time, upon the interlocutory or final order or decree of the said district court, or of any appellate court to which the above named suit may proceed, and upon notice of such order or decree to James W. Gerard, junior, esquire, proctor for the claimants of said steamship, &c., abide by and pay the money awarded by the final decree rendered by the court, or the appellate court, if any appeal intervene, then this stipulation to be void; otherwise to remain in full force and virtue.

Liverpool, New York, & Philadelphia Steamship Company,
By JOHN G. DALE, *Agent.*
JOHN G. DALE.
M. G. HAUGHTON.

Taken and acknowledged this eighteenth day of May, 1866, before me.
CHAS. W. NEWTON,
U. S. Commissioner.

18 EASTERN DISTRICT OF NEW YORK, *ss:*

part to the above stipulation, being duly , deposes and says that they reside in the State of New York; that they are worth the sum of twenty thousand dollars each, over and above all his just debts and liabilities.

JOHN G. DALE.
M. G. HAUGHTON.

Sworn to this eighteenth day of May 1866, before me.

CHARLES W. NEWTON,
U. S. Commissioner.

Recorded this day of 186

We approve of the form and sufficiency of the within bond, and consent to the discharge of the within-named steamer.

OWEN, GREY & OWEN.

Recorded May 18th, 1866.

SAMUEL T. JONES, *Clerk.*

Endorsed: U. S. district court. Henry P. Simmons et al. vs. the steamer "City of Paris," &c. Stipulation for value. Jas. W. Gerard, jr., proctor for claimants.

19 To the Honorable Charles L. Benedict, judge of the district court of the United States for the eastern district of New York:

The petition of Robert C. Grace, (master,) John C. Gifford, (mate,) Enock Blackmore, (seaman,) John K. Clayton, (steward,) and Charles Steward, (seaman,) respectfully showeth:

That they were the officers and crew of the schooner "Percy Hielner" at the time of the collision hereinafter mentioned.

That there is now pending in this honorable court a suit, brought in the name of Henry P. Simmons and others, against the steamer "City of Paris," her engines, &c., to recover damages for a collision which occurred on the 14th day of April, 1866, between the said steamer and the schooner "Percy Hielner" above mentioned.

That the Liverpool, New York, and Philadelphia Steamship Company have intervened as claimants of the said steamer, and have filed the usual stipulations for costs and value in this court.

That your petitioners were respectively owners of certain property, effects, and monies, which was in and on board of the said
20 schooner at the time of, and which was totally lost by, the collision above stated.

That the value of the property owned by the said Robert C. Grace, and which was so lost as aforesaid, amounted to the sum of one thousand dollars or thereabouts; that the value of the property owned by the said John C. Gifford, and so lost as aforesaid, amounted to the sum of two hundred dollars or thereabouts; that the value of the property owned by the said Enock Blackmore, and so lost as aforesaid, amounted to two hundred and fifty dollars or thereabouts; that the value of the property owned by the said John K. Clayton, and so lost as aforesaid, amounted to the sum of two hundred and fifty dollars or thereabouts; and that the value of the property owned by the said Charles Steward, and so lost as aforesaid, amounted to the sum of one hundred and twenty-five dollars or thereabouts.

That the above-mentioned claims are now owned by your petitioners

in the above proportions, and they are entitled to recover and collect the same from the said steamer "City of Paris."

And your petitioners further show that the said collision was
21 occasioned by the negligence, want of skill, and improper conduct of those navigating the said steamer City of Paris and having control thereof, and not by or through any fault, negligence, or improper conduct on the part of the persons navigating and having control of the said schooner, as your petitioners verily believe, and as is more fully alleged and set forth in the said libel now on file in the said pending suit; to which libel and allegations therein contained your petitioners would refer.

And your petitioners, therefore, respectfully pray that, in accordance with the rules and practice of this honorable court, they may be admitted by the court to be heard for their own interests in the res non within the control of the court in the above-mentioned cause, & represented by the said stipulation of the claimants therein, and that they may be allowed to prosecute as co-libellants in the said suit, and to share the benefit of the said stipulation in the proportion of their respective claims, as they may be entitled to receive by the proof from the owners of the steamer "City of Paris" & the stipulation in the said bond for losses occasioned by the said collision, and that they may have such other & further relief herein as in law and justice they may be entitled to receive.

22 ROBERT C. GRACE,
JOHN C. GIFFORD,
ENOCK BLACKMORE,
JOHN K. CLAYTON,
CHARLES STEWARD,
By E. J. OWEN, *Att'y.*

EASTERN DISTRICT OF NEW YORK, *ss:*

Edward J. Owen, being duly sworn, says that he is one of the attorneys for the petitioners in the foregoing petition named; that the same is true to the best of deponent's knowledge, information, & belief; that the said petitioners are not, nor is either of them at present, within this district, for which reason this affidavit is made by deponent as one of their said attorneys.

EDWARD J. OWEN.

Sworn to before me this May 25th, 1866.

JOHN I. RICE,
Notary Public N. Y. County.

Filed May 30th, 1866.

SAMUEL T. JONES, *Clerk.*

23 At a stated term of the district court of the United States for the eastern district of New York, held at the United States court-rooms, in the city of Brooklyn, on the thirtieth day of May, 1866.

Present, Honorable Charles L. Benedict, district judge.

HENRY P. SIMMONS & *als.*
vs.
THE STEAMER "CITY OF PARIS," her engines, &c.

On reading and filing the foregoing petition of Robert C. Grace, John C. Gifford, Enock Blackmore, John K. Clayton, and Charles Steward, and the annexed consent of J. W. Gerard, jr., claimant's proctor:

Now, therefore, on motion of Owen, Gray, and Owen, proctors for the said petitioners and for the libellants in the above action, it is ordered that the said petitioners be admitted to be heard for their own respective interests in the res non within the court in this action, and represented by the stipulation of the claimants herein, and their sureties
24 entered into and filed in accordance with the rules and practice of this court, on the day of May, 1866, and recited and referred to by the said petitioners in their said petition, and that they may be allowed to prosecute as co-libellants in this suit and to share the benefit of the said stipulation in the proportion of the compensation which they may respectively prove to be entitled to receive from the owners of the steamer "City of Paris," and the stipulations in the said bond for the losses occasioned by the said collision, and referred to in the foregoing petition.

And it is further ordered that the petitioners be allowed to introduce evidence in support of their several demands against the steamer City of Paris under the allegations of the libel on file in the action as well as under the foregoing petition, and that they may be heard for their interests as herein allowed at the time of the trial of this cause, and that at the trial the petitioners may restrict their proofs to their respective interests in the property lost by reason of the collision set forth in the libel herein, and may rest their recovery on the event of the trial between the principal parties hereto.

CHARLES L. BENEDICT.

I consent to the entry of the above order.
25 New York, May 26th, 1866.

JAMES W. GERARD, JR.
Proc. for Claimants.

Endorsed: U. S. district court, eastern district. Henry P. Simmons & als. against the steamer "City of Paris," &c. Petition & order to admit as co-libellants Robert C. Grace & als. Owen, Gray, and Owen, libe'ts' proctors. Filed & entered May 30th, 1866.

26 To the honorable Charles L. Benedict, judge of the district court for the eastern district of New York:

The answer of the Liverpool, New York, and Philadelphia Steamship Company, claimants in this action of the steamer "City of Paris," her tackle, &c., to the libel of Henry P. Simmons & others, alleges and articulately propounds as follows:

First. That they are ignorant of the matters in the first article in the said libel contained, and also of the allegations in the second article, relating to the arrival of said schooner at the port of New York, and the cargo then laden on board of her, and they, therefore, leave the libellants to make such proof thereof as they may be advised.

Second. And these claimants further say that at the time of the happening of the collison in said libel set forth, the said steamer "City of Paris" was a vessel from a foreign port, bound from the port of New York by the way of Sandy Hook; that, in accordance with the
27 statutes of the State of New York providing for the licensing and goverment of pilots and regulating pilatage of the port of New York, she was under an obligation to take on board a pilot licensed, as provided in said act, and in compliance with such obligation had taken on board a licensed pilot who had, by virtue of his office the control and management, & directed the course and nagigation, of said vessel at the time of the occurance of said collision, & these claimants are

advised and respectfully insist that if there was any fault in the navigation of said vessel by said pilot they are not responsible therefor by reason of the compulsory obligation on them to take on board such pilot as aforesaid, and his presence on board directing the navigation of said vessel.

Third. And these claimants, without intending to waive the benefit of the defence in the preceding article allege, further answering, deny that the steamer "City of Paris" ran into the libellant's schooner with great violence, or that she was at the time going under a strong head of steam, or at an improper and dangerous rate of speed, or that she had an insufficient or incompetent look-out, or that said look-out was either improperly stationed or inattentive to his duty, or that said steamer
28 was in any respect carelessly or unskillfully or negligently navigated, or that said steamer, without slacking her speed or doing anything to avoid a collision, came right down or against said schooner, & struck her starboard side, as in each of the above particulars in said libel alleged.

Fourth. These claimants, further answering, say that the said steamer on the morning of the 14th April, left her dock at pier 45, North river, for the purpose of proceeding to sea; that from the time she left the dock and up to the time of the collision in said libel alleged, the pilot was stationed on the bridge which is above the hurricane deck of said steamer, and that alongside of him was the master; that the chief officer & one sailor were on the look-out on the forecastle-head, and that the remaining complement of the ship's company were at their proper positions. That from the time the vessel left her wharf up to the time the schooner was first observed, as next hereinafter stated, the said steamer was going slow, at about a quarter speed, & carrying a very small head of steam.

That when the steamer got below the Battery, and being in the usual channel, was about shaping her course to pass between two vessels
29 riding at anchor, one off her port and the other off her starboard bow, (the bows of said vessels being pointed to the eastward,) the look-out on the steamer reported the libellants' schooner off the steamer's port bow, & as she was steering with the wind free or nearly so across the steamer's course, the steamer's helms was put immediately astarboard and the engine slowed for the purpose of giving away to the schooner and passing under her stern, and if the said schooner had been properly navigated or had a proper look-out and kept her course the collision would not have happened. That said schooner, however, as the claimants believe, had no proper look-out, and from that cause or other fault in her navigation, did not observe either the steamer herself or the movement adopted for the purpose of enabling the schooner to pass on her course in safety, and in place of keeping her course as she was bound to do, as these claimants are advised, twice altered the same, first, so as to attempt to pass astern of the steamer, & then to cross her bows again. That as soon as such change of course was perceived, the steamer's engines were stopped and backed, and that at the time the collision occurred the steamer had little, if any, way on her.

30 And these claimants are advised and respectfully insist that the collision was occasioned by the improper navigation of said schooner, and not by any negligence on the part of said steamer.

Fifth. The claimants deny that the value of the said schooner and cargo, property and effects on board, whether carried on freight or belonging to any of the parties libellants, were as claimed by them.

Sixth. That all and singular the premises are true. Wherefore

these claimants pray that this honorable court would be pleased to pronounce against the libel aforesaid and to condemn the libellants in costs, and otherwise law and justice to administer in the premises.

Liverpool, New York, and Philadelphia Steamship Company,
Per JOHN G. DALE, *Agent.*

JAMES W. GERARD Jr.,
Proctor for Claimants.

CITY, COUNTY OF NEW YORK, *ss:*

John G. Dale, of said city, being duly sworn, deposes & says
31 that he is the agent of the Liverpool, New York, and Philadelphia Steamship Company, claimants in the above action; that the foregoing answer is true of his own knowledge, except as to the matters which are therein stated on information and belief, and as to these matters he believes it to be true.

JOHN G. DALE.

Sworn to before me this 29th day of June, 1866.
JAMES A. MOORE,
Notary Public.

Endorsed: U. S. circuit court eastern district of New York. Henry P. Simmons & el. vs. the steamship "City of Paris." Answer. J. W. Gerard, jr., proctor for claimants. Filed June 30th, 1866.

32 At a stated term of the district court of the United States of America for the eastern district of New York, held at the United States court-rooms in the city of Brooklyn, on , the 22d day of April, in the year of our Lord one thousand eight hundred and sixty-seven.

Present, the Honorable Charles L. Benedict, district judge.

HENRY P. SIMMONS
vs
THE STEAMER "CITY OF PARIS," &c.

Cause called in its order. Parties appear and answer ready. Ordered hearing.

Mr. Owen for libellants reads the libel.
Mr. Buckley for claimants " " answer.

Evidence for libellants:

Deposition of Robert C. Grace read.
" " John Clayton "
" " E. Blackman "
Libellants rest.

Evidence for claimants:

Deposition of James Kennedy read.
" " ——— Mathewson "
" " John Fulton "
" " Robert Hamilton "
Henry Harbenson sworn and examined.
Further hearing adjourned to April 23d, 1867.

APRIL 23*d*, 1867.—Hearing continued.

Evidence for claimants:

E. B. Camp sworn & examined.
James B. Camp " "
Evidence closed.

Mr. Owen argues for libellants. Messrs. Buckley & Benedict
33 argues for claimants. Mr. Owen argues for libellants. Both sides rest. Briefs to be submitted.

(Indorsed:) Vol. . No. . U. S. district court for the eastern district of New York. Henry P. Simmons vs. the steamer "City of Paris." Order. Proctor for . Filed and day of 186 .

34 U. S. district court, E. D.

HENRY P. SIMMONS & OTHERS
vs.
THE STEAMER "CITY OF PARIS," her engines, machinery, &c.

EASTERN DISTRICT OF NEW YORK, *ss:*

Robert C. Grace, a witness produced and examined de bene esse on the part of the libellants under and by virtue of the stipulation hereto annexed, being duly sworn, deposes and says: I am twenty-eight years old; I am a seafaring man, and have been such for about 13 years past; I reside in Philadelphia; I was master of the schooner "Percy Hielner" at the time of the collision between her and the steamer City of Paris, which occurred on the 14th April, 1866. The schooner was on a voyage from Philadelphia to Pawtucket, Rhode Island, by the way of the Sound, with a cargo of coal which she was transporting on freight; she had 161 tons of coal on board at the time, the freight upon which was $2 75 per ton, & amounted to $472 75.

When the schooner had got into the East river upon her aforesaid voyage on the morning of the collision, finding the tide against us
35 we put about and stood for Jersey City to find anchorage, and to remain until the tide changed; the collision occurred while we were going over to Jersey City. I had the wheel myself; the schooner was steered by wheel.

The schooner had on her foresail with her main peak slacked down; she was sailing under mainsail, foresail, main jib, flying jib. The other sails were furled. The wind was about east-northeast, and blowing from three to four knots' breeze. The tide was slack in the North river. The schooner was sailing from three to four knots at the time of the collision.

The mate, John Gifford, was on the look-out. He is now dead. There were two seamen standing forward, and the steward, who was standing aft between the house and the rail.

The schooner was heading about west by north. The mate first called my attention to the steamer "City of Paris." I then saw her in a moment afterwards. She bore on our starboard bow, and I should judge she was a hundred to a hundred & fifty yards off. She seemed to be coming down very smart; to me she seemed to be coming at ten
36 knots. I held my course to cross her bows. I had not changed the course of the schooner; we were running between two ships which were lying at anchor, so as to pass one on the port and the other [one *in pencil*] on the starboard. One lay a little astern of the other, and from three to 400 yards apart.

It was but a very few minutes after I saw the steamer before she struck us. She struck the schooner on her starboard side about the main chains. The steamer was going ahead when she struck us. Her speed did not appear to be stopped more than when I first saw her. The steamer went nearly half [way *written over with pencil*] through the steamer and right

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When the schooner had got into the East river upon her aforesaid voyage on the morning of the collision, finding the tide against us
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The schooner had on her foresail with her main peak slacked down; she was sailing under mainsail, foresail, main jib, flying jib. The other sails were furled. The wind was about east-northeast, and blowing from three to four knots' breeze. The tide was slack in the North river. The schooner was sailing from three to four knots at the time of the collision.

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The schooner was heading about west by north. The mate first called my attention to the steamer "City of Paris." I then saw her in a moment afterwards. She bore on our starboard bow, and I should judge she was a hundred to a hundred & fifty yards off. She seemed to be coming down very smart; to me she seemed to be coming at ten
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upon top of her, and sunk her, knocking the mainmast out of her. After the collision I got upon the taffrail, and the mainboom swung in and knocked me overboard. I was picked up by a small boat in the river. I don't know who picked me up. The steamer had not stopped after the collision as far as I could observe. The schooner with [the *in pencil*] her cargo was sunk and has never been recovered. I lost everything which
I had on board except the clothes I had on. I was part owner of
37 the schooner and she was owned by the several persons named as
libellants in this cause. I have made a list of the articles which were on board belonging to me and which were lost.

The paper now produced and marked A, and signed by me, contains such list. The value placed upon the several articles is what they were worth at the time of their loss.

I had a conversation with Captain Kennedy, the master of the "City of Paris," at the office of the agent, in the lower part of Broadway; I went there along with one of my owners to try to get pay for my vessel. The captain and the agent, Mr. Dale, were present; the pilot was present the first time; I went twice upon this subject; I did not see the captain the first time I went there; when I saw him there were present Mr. Dale, Mr. Simmons, one of my owners, and Captain Kennedy. Captain Kennedy asked me why I did not keep my course; I told him I did keep my course; that the only thing I could do was to keep my course and cross his bows; that was the only conversation on that subject.

Q. Did you tell Captain Kennedy that the reason you altered your
helm was, that you did not see the steamer before, or anything to
38 that effect?

No, sir. At the time I saw the pilot, he asked me why I changed my course. I told him I did not change my course. I did not in fact change my course.

At the first interview when I saw the pilot and after he had asked me why I changed my course, and after I had told him I did not, I made a remark to him why he did not put his helm to starboard and go under our stern. His answer was, if he had put his helm to starboard he would have run into the ship lying at anchor. Nothing further was said. The schooner was worth, as she was at that time, $5,000.

Cross-examined:

Our schooner was 129 tons custom-house measurement, old; she was according to new measurement 107 tons; her carrying capacity was from a 165 to 170 tons; she could carry in neighborhood of 6,000 bushels of grain, but I never carried any in her. I had been master of her for four years. I know the schooner's age; she was fourteen years old; she was built at Tuckahoe, New Jersey. Have never bought or sold vessels of her description; bought in her myself; know of no sales of
vessels of her description in the spring of 1866. I don't know
39 what the market value of the vessel was in the spring of 1866.
I have stated all the conversation that occurred at the company's office in Broadway between myself, the captain of the steamer, and the pilot. The conversations, of which I have spoken, took place in the back office. At the first conversation with the pilot there were present the agent and another man I don't know; our conversation, the pilot, myself, and Mr. Simmons.

On the second conversation with the master, the agent, myself, and Mr. Simmons were there also. Don't recollect whether the other man referred to above was there then. These conversations occurred the first one on the Monday following the collision. The second was on the

return trip of the steamer. The coal we were freighting we were carrying for some consignees in Pawtucket, R. I., whose names I don't remember. Had signed a bill of lading for it, which was lost with the vessel. The bill of lading contained the exception of peril of the seas.

Mr. Gifford, the mate, died, in August last, of the cholera. After the collision he had not been sailing with me. He had been mate of the schooner Ceen Gudo, a sch'r plying between Philadelphia and Boston.

40 When we put about to go over to Jersey City, we had got up the East river as far as Coenties slip; don't know the pier; we would have to go down the East R. again to get to Jersey City, and then stand across. We went down abreast of the Battery before we altered our course to go over to Jersey City. When we altered our course we were below the Hamilton ferry, and Governor's island was right abreast of us on a beam. We were nearer Governor's island than the Battery. I don't know the exact distance we were off from the island; we were a reasonable distance off, say a couple of hundred yards or so; could not tell the exact distance. We wanted to get to the flats at Jersey City to anchor. By flats I mean an anchorage ground any where below the Jersey City ferry. Before I put about when we were abreast of Governor's island, we were heading somewhere near S. W. I was not steering by compass, but by ranges.

When I say in my direct examination, however, that we were heading west by north, I mean that we were heading that way by compass at the time the steamer struck us; we were heading right across. As we were going across, we had the wind free; our sails were on the

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From the time my vessel's course was changed abreast of Governor's island to go across the river till my attention was first called to the steamer, we had run nearly or all of half-way across.

From the time the mate called my attention to the steamer till we came in collision, we did not run but a very short distance. We had run 100 but not 200 feet. Our vessel was 78 feet long. Don't know the distance across the river.

We were close on to the steamer when the mate called my attention to her; we were passing between two ships when we discovered her. The bows of these two ships were headed to the eastward, but one laid astern of the other. I should judge they laid between 3 & 400 yards apart.

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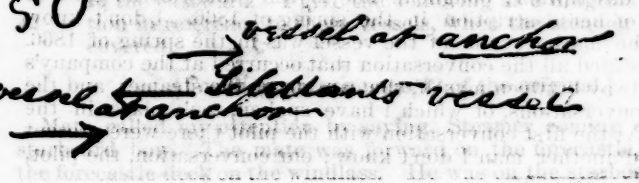

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I mean that this distance was between the stern of one and the bow of the other. One bow was nearly abreast of the stern of the other. When we first discovered the steamer, our bows had opened out by the ship's stern, which was on our starboard bow. That ship laid furtherest to the eastward. I give the following as a diagram of our posi-

42 tion in reference to these vessels, when the steamer was first discovered:

[For diagram see page 42 of the original.]

Mate called my attention by saying, Steamer coming down on our starboard bow. The mate was forward on the forecastle, standing by the forecastle deck on the windlass. He was on the starboard side. He had been there 15 to 20 minutes. He went there when we were going down the East river. The two sailors were forward ready to obey orders, not handling anything.

I had not seen the steamer before the mate called my attention to her;

had seen the two vessels; had looked through the opening; did not see the steamer coming up; there were other vessels there anchored in the river; can't say how near; there was the ordinary distance apart of anchorage; don't know how close we were to the vessel on our starboard bow; when we first discovered the steamer we were running, I suppose, about half the distance between the two; when the steamer was first discovered, should judge she was about 100 to 150 yards off, as
43 near as I can tell; when I first discovered the steamer, did not know that a collision would be inevitable. I kept my course to cross the steamer's bow; did not let my vessel fall off at all or come up in the wind.

I altered my wheel, but I say it was only enough to keep her steady. I did not make nary turn of the wheel around. I may have turned it a spoke each way, just to keep the vessel steady.

Did not look at the steamer from the time I first discovered her till the time the collision occurred. I can't tell whether she changed her course or not. It was only a few moments from the time I first discovered the steamer till I was knocked down by the boom; when I was knocked over by the boom the steamer had struck and was into my vessel. I was picked up by a boat close by my vessel. The boat took me aboard of another vessel laying over under Jersey City; our boat had to be rowed there. When I was picked up by the boat my vessel was sunk; the steamer had gone over her. I don't know that my vessel was hanging by the steamer's bowsprit, and that she did not sink till the steamer backed clear of her. I think it is not true that she
44 backed out of her. I don't think there was any stoppage. I think the steamer went right on over her. I mean to swear that the steamer did not stop, but cut us down and went right on over us. I testify to that from what I saw at the time. What I saw was after I was knocked overboard, while I was in the water and before I was picked up. Being in that position, I say the steamer went right on. I would not swear her way was not checked before the collision, but I don't think it was. I could not have noticed whether she was backing.

I said in my direct examination the mast of our vessel was knocked out; it was the main mast; it fell over after the collision; as I was going overboard it fell over on the port side. The boom which knocked me over was attached to this mast, and was swung in by the falling of the mast.

I had a barrel of beef, a barrel of pork, a barrel of flour, and some hard tack, 6 bushels of potatoes, 20 lbs. of butter, 20 lbs. of lard, some dried apples, tea, sugar, and molasses, and coffee. The watch was a gold watch and chain.

Re-direct:

'45 The schooner had been rebuilt six years before the collision. She had new timber in her and new fastening. She was well found; part of her sails were not a year old. They had been put on in September, 1865. She was sound. She was a centre-board schooner and a good sailing vessel. She was iron-fastened and trunneled.

Ques. How far did the two vessels at anchor lie apart, supposing them to have been abreast of each other?

Ans. I should judge that they lay in the neighborhood of three hundred yards apart if they had been abreast. I was sailing between the two, and was about midway between them.

Ques. Suppose these two vessels had laid directly astern of each

other, how far would it have been from the stern of the one to the bow of the other?

Ans. I should judge from 75 to 100 yards.

Ques. When you first saw the steamer, state more definately how much she bore off your starboard bow; whether abeam or how in particular.

(Objected to.)

Ans. She was pretty much abeam of us. She struck the schooner pretty much square or a little angling aft.

46 Re-cross:

Q. What personal knowledge have you of the overhauling of the schooner of which you have just spoken?

Ans. I saw her in Philadelphia a short time after she was rebuilt.

Ques. How do you know she was rebuilt?

Ans. I did not see the timber put in; I saw that she had new ceiling, and what the captain told me was in her at the present time.

Ques. Except that you saw that she had a new ceiling, is not all the knowledge you have about her being rebuilt what the captain told you?

Ans. Yes, sir.

ROBERT C. GRACE.

Subscribed and sworn to before me this 5th day of December, 1866.

JOHN I. RICE,
Notary Public N. Y. County.

47 A.—*Memorandum of property on board of the schooner "Percy Heilner," belonging to Robert C. Grace, master, with the value thereof, and which was lost by the collision with the steamer "City of Paris."*

Provisions	$100 00
Watch and chain	150 00
Gun	25 00
Spy glass	12 00
Awning	18 00
Fiddle	10 00
4 coats	54 00
6 pr. pants & vests	66 00
Shirts & drawers	34 00
Feather bed & pillows	20 00
2 straw beds	6 00
3 quilts & 1 blanket	13 00
2 hats, $3.00	6 00
3 hats, $2.00	6 00
Boots	23 00
4 charts	13 90
Coasting pilot	4 50
Books	10 00
Pistol	6 00
Fishing line	5 00
Tools	10 00
Money	12 00
	$601 40

ROBERT C. GRACE.

Subscribed and sworn to before me this 5th day of December, 1866.
JOHN I. RICE,
Notary Public N. Y. County.

48 U. S. district court, (E. district.)

HENRY P. SIMMONS & OTHERS
vs.
THE STEAMER "CITY OF PARIS," her engines, machinery, &c., &c.

EASTERN DISTRICT OF NEW YORK, *ss:*

John Clayton, a witness produced and examined de bene esse on the part of the libellants under the stipulation hereto annexed, being duly sworn, deposes and says: I am twenty-six years old, and reside in Philadelphia. I was on board of the schooner "Percy Heilner" at the time of the collision between her and the steamer "City of Paris." I was steward; I was on deck at the time of the collision; I stood between the house and the sail on the starboard side. I had been standing there for some little time. I went there about the time the schooner was headed up when off Governor's island to go across to Jersey City. The captain was at the wheel; the mate was forward on the look-out. I saw
49 him there. My attention was first called to the steamer by the mate singing out, Steamer on the starboard bow. I then looked up and saw the steamer coming. She appeared to be somewhere from a 100 to 150 yards off. She appeared to be coming right on our beam a little forward. I stood there until the collision—until the vessels came together. The steamer struck the schooner right in the main chain on the starboard side. She appeared to be ranging ahead and going forward when she struck. She appeared to be coming between five and ten knots. I saw a little ripple under her bow. The blow struck in and cut the schooner pretty nearly in to. I don't think the steamer stopped after she struck. I got on board of the steamer by a rope thrown to me by one of the sailors. I got up on the port bow. I was the last one that left the schooner. The schooner went down. The steamer passed right over her, and continued on down to Staten island, where we were put aboard of a tug and sent to Jersey City. The course of the schooner was not altered while I was standing between the house and the rail. I noticed the two vessels at anchor between which the schooner
50 was sailing. I should think the schooner was from 50 to 75 yards from the one on the starboard. I heard no hail from the steamer. After I got on board of the steamer I had conversation with the captain of the steamer.

Ques. What did he say, and what was the conversation?

(Objected to.)

Ans. He asked me if there was any body drowned. I told him I did not know. He then asked me what the schooner was loaded with. I told him she had coal on. Then he asked me why we altered our course. I told him we did not. Then the pilot asked me about the drowning and the cargo, and I made him the same answers. He also asked me what the schooner was valued at, and I told him $5,000. He asked me where we were bound, and I told him. He also asked me if we altered our course, and I told him we did not. This was all that was said in reference to the accident.

I had my clothing on board the schooner, which was all lost except

what I had on. I have made a list of the articles which I lost, with their value, and which I now produce and annex it hereto. The value
51 therein stated is the fair value. The black overcoat had been worn but very little. It cost me $40. I had it about two or three months. The rest of the cloth clothes were pretty much all new. They are charged in the bill at cost. I had two pair of pants and a vest which had not been worn more than twice. They were my better worn clothes. The value of the articles so lost is $224 50.

Cross-examined:

I was standing before the collision between the house and the rail on the starboard side. As I stood there the man at the wheel was behind me. The mate was forward and about 70 feet from me. He was on the windlass along side the forecastle deck. The windlass is on the main deck. The forecastle deck is about a foot and a half above the main deck. What I mean by the forecastle deck is a big hatch called the forecastle hatch. The windlass is in the centre of the main deck forward of the foremast. The foremast was between me and the mate. The mainmast and galley were also between me and the mate. I mean by the galley the house we cook in. The top of the galley is
52 about 4½ feet above the main deck. It does not cover the whole deck. It is about 4 or 5 feet wide. It is between the fore and main mast.

We had the wind free. The sheets were about half off on the port side. I had nothing particular to call me to place where I was. I was merely standing there looking around. I had a clear view around me. I saw the two vessels lying at anchor, through which we were passing at the time of the collision, as we approached them.

Ques. Describe their positions as your vessel approached them.

Ans. They were heading each with their bows to the eastward. One laid farther to the eastward than the other. The one to the westward laid more towards Bedloe's island.

Ques. As the vessels laid, what do you think was the distance from the stern of one to the bow of the other?

Ans. From 75 to 100 yards.

Ques. How did you approach the vessels? How did they bear to you as you approached them?

Ans. One bore on our starboard bow, and the other on our port bow. We were nearest to the eastward one on our starboard bow. I
53 could see through the opening between them. I did not see the steamer before I heard her reported by the mate. At the time I heard the hail from the mate, I was looking at the ship on the starboard bow. She was a full-rigged ship; the other was also. I was looking at the ship to ascertain her name. I was looking at her stern as we passed under it. We were just out clear of this ship when the mate reported the steamer; I mean that our stern had passed. The collision was almost instantaneous after the mate's report. The steamer had a short bowsprit. I did not see that fast in the rigging or the chains of the schooner. As the steamer struck she struck by the main chains & kind of glanced off toward the main or after hatch. Her starboard bow was more aboard of us than her port bow. I climbed right up over the steamer's bow on her port side. When I got aboard I was excited and frightened. When I speak of the motion of the steamer after I got on board, I give my impressions as they were in the excitement & fright of the moment. When I got aboard the steamer I turned around, & the schooner was under the water. She was deeply loaded with coal. She

Subscribed and sworn to before me this 5th day of December, 1866.
JOHN I. RICE,
Notary Public N. Y. County.

48 U. S. district court, (E. district.)

HENRY P. SIMMONS & others
vs.
THE STEAMER "CITY OF PARIS," her engines, machinery, &c., &c.

EASTERN DISTRICT OF NEW YORK, *ss:*

John Clayton, a witness produced and examined de bene esse on the part of the libellants under the stipulation hereto annexed, being duly sworn, deposes and says: I am twenty-six years old, and reside in Philadelphia. I was on board of the schooner "Percy Heilner" at the time of the collision between her and the steamer "City of Paris." I was steward; I was on deck at the time of the collision; I stood between the house and the sail on the starboard side. I had been standing there for some little time. I went there about the time the schooner was headed up when off Governor's island to go across to Jersey City. The captain was at the wheel; the mate was forward on the look-out. I saw
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Ques. What did he say, and what was the conversation?

(Objected to.)

Ans. He asked me if there was any body drowned. I told him I did not know. He then asked me what the schooner was loaded with. I told him she had coal on. Then he asked me why we altered our course. I told him we did not. Then the pilot asked me about the drowning and the cargo, and I made him the same answers. He also asked me what the schooner was valued at, and I told him $5,000. He asked me where we were bound, and I told him. He also asked me if we altered our course, and I told him we did not. This was all that was said in reference to the accident.

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what I had on. I have made a list of the articles which I lost, with their value, and which I now produce and annex it hereto. The value
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Cross-examined:

I was standing before the collision between the house and the rail on the starboard side. As I stood there the man at the wheel was behind me. The mate was forward and about 70 feet from me. He was on the windlass along side the forecastle deck. The windlass is on the main deck. The forecastle deck is about a foot and a half above the main deck. What I mean by the forecastle deck is a big hatch called the forecastle hatch. The windlass is in the centre of the main deck forward of the foremast. The foremast was between me and the mate. The mainmast and galley were also between me and the mate. I mean by the galley the house we cook in. The top of the galley is
52 about 4½ feet above the main deck. It does not cover the whole deck. It is about 4 or 5 feet wide. It is between the fore and main mast.

We had the wind free. The sheets were about half off on the port side. I had nothing particular to call me to place where I was. I was merely standing there looking around. I had a clear view around me. I saw the two vessels lying at anchor, through which we were passing at the time of the collision, as we approached them.

Ques. Describe their positions as your vessel approached them.

Ans. They were heading each with their bows to the eastward. One laid farther to the eastward than the other. The one to the westward laid more towards Bedloe's island.

Ques. As the vessels laid, what do you think was the distance from the stern of one to the bow of the other?

Ans. From 75 to 100 yards.

Ques. How did you approach the vessels? How did they bear to you as you approached them?

Ans. One bore on our starboard bow, and the other on our port bow. We were nearest to the eastward one on our starboard bow. I
53 could see through the opening between them. I did not see the steamer before I heard her reported by the mate. At the time I heard the hail from the mate, I was looking at the ship on the starboard bow. She was a full-rigged ship; the other was also. I was looking at the ship to ascertain her name. I was looking at her stern as we passed under it. We were just out clear of this ship when the mate reported the steamer; I mean that our stern had passed. The collision was almost instantaneous after the mate's report. The steamer had a short bowsprit. I did not see that fast in the rigging or the chains of the schooner. As the steamer struck she struck by the main chains & kind of glanced off toward the main or after hatch. Her starboard bow was more aboard of us than her port bow. I climbed right up over the steamer's bow on her port side. When I got aboard I was excited and frightened. When I speak of the motion of the steamer after I got on board, I give my impressions as they were in the excitement & fright of the moment. When I got aboard the steamer I turned around, & the schooner was under the water. She was deeply loaded with coal. She

was an old vessel, about 14 years old. I did not watch the wheel to see whether our course was altered or not. I say her course was not
54 altered, from her appearance presented to my eye. From her course in the water, I can't tell how much motion of the wheel would be required to alter her course.

Re-direct:

The steamer went down between the two ships which lay at anchor, as I have stated. I mean she passed down between them.

JOHN CLAYTON.

Subscribed and sworn to before me this 6th day of December, 1866.

JOHN J. RICE,
Notary Public N. Y. County.

55 JOHN CLAYTON.—*Articles and value, which was lost on board of schooner "Percy Heilner," when run down by steamer City of Paris.*

1 b. cloth overcoat	$40 00
1 b. frock "	25 00
1 sack "	15 00
1 pair pants and vest	15 00
1 black pants and vest	15 00
Bed & bedding	10 00
1 pair boots	9 00
1 acordian	15 00
1 pair shoes	5 00
1 trunk	5 00
Small articles, needles, threads, &c	5 00
2 white undershirts	3 00
2 pair drawers	3 00
4 overshirts	12 00
2 black hats	6 00
2 common pair pants	10 00
1 pair heavy boots	9 00
2 muslin shirts	10 00
	$222 00
2 white pocket h'dk'f & cravat	2 50
	$224 50

JOHN CLAYTON.

Endorsed: U. S. district court, E. D. Henry P. Simmons vs. the steamer City of Paris, &c. Depositions of Robert C. Grace & John Clayton. Owen, Gray & Owen, lib'ts' proc.

Due service of copy within is hereby admitted, December 10th, 1866. June 20th in evidence.

J. W. GERARD, JR.

56 U. S. district court, E. district.

HENRY P. SIMMONS & *als.*
vs.
THE STEAMER "CITY OF PARIS," her engines, &c., &c.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Enock Blackman, a witness produced and examined de bene esse on the part of the libellants herein, being duly sworn under the stipulation hereto annexed, deposes and says: I am about twenty-eight years old. I live at Leeds point, New Jersey. I am a seafaring man, and expect to go to sea before long. I was on board of the schooner "Percy Heilner" at the time of the collision between her and the "City of Paris," in April, 1866. I was a sailor, and was standing forward between the foremast & the windlass. I was standing there waiting orders & looking out. I had been standing there about a quarter of an hour, I suppose. Captain Grace had the wheel. The schooner was at the time going across to Jersey City to find anchorage, and wait for a flood tide to take us through the East river. The tide was then about high water. I did not see the steamer until the mate spoke to the captain about her. I should think she was then about three
57 hundred yards off, as near as I can tell. She bore on our starboard bow. The schooner was then heading across the river. I can't say exactly how she was heading by compass. The schooner was going between two ships, which were lying at anchor heading to the eastward, I believe. They lay about 300 yards apart, as near as I can tell. The schooner went in the middle, between them. I did not notice any change in the course of the schooner after we saw the steamer.

Ques. If there had been any change in her course, would you have known it?

I think I should.

Ques. Who was standing forward with you?

The mate and the other man before the mast. The mate is dead, and the last I heard of the other man he was at Mobile.

The steamer appeared to be coming nine or ten knots, I guess, when I first saw her. I did not notice whether she slacked her speed or not. She struck the schooner forward of the main rigging on the starboard side, and sunk her. I lost all I had, except what I had on.

Ques. State what you lost and the value thereof.

I lost one overcoat and two sack coats, together with one oil cloth coat. I just bought the overcoat, and had paid $40 for it, about
58 a month before. I paid for one sack coat $25, and for the other $20, and I had had one about three months, and the other about two. I paid $5 for the oil-cloth suit. I had five pairs of pantaloons; they were all pretty much new—two pair of black doeskins, two pair of thin pants, and two vests—cost together $25. They had not been worn a great deal. I paid $15 for the other two pair of pantaloons. They had been worn about six months. I can't tell how much they were worth. Taking them and [and] two vests, which belong with them, I think they were worth $10. I had two pairs of boots—one pair was new and the other old. I paid $6 50 for the new pair, and the two pair were worth $7.

I had five pairs of socks, which were worth $2 in all. I had six shirts, four of woollen and two white. The woolen ones were worth $12, and the two white ones were worth $5. I had two hats—black silk hats—one was new and the other worn. The new one cost $3, and the

two were worth four dollars. I had $30 in money, which was in my pocket at the head of my birth. I had bed & blankets, worth together, including pillow, $12. I had a trunk worth $5. These were all, unless there were some small notions.

Cross-examined:

The man's name who is at Mobile is Charles Steward; he is a
59 white man. The mate, myself, and him were all standing together; we were all standing forward; we were talking together. Charley and I had been talking together from the time the vessel started to go across, but the mate had not said anything up to that time.

It was an exclamation from the mate which attracted my attention to the steamer. Had not seen her myself before that.

He, the mate, sung out and asked the captain "if he saw that steamer coming?" That is all the mate said. The captain said "he saw her," I believe. This was just before the collision. I seen they were going to strike, and run aft. I had got right by the corner of the house when they came together. I started to run aft less than a minute after I heard the mate call out. The corner of the house from where I was standing is over half the length of our vessel. It was about 40 feet. When the mate called out we had just opened clear of the stern of the vessel that was on our starboard side. I should say we were within 150 yard of her stern. I could have read the name on her stern, I suppose. I had not looked down through the opening between the vessels before the mate's hail of which I have spoken. I was
60 looking over toward Jersey City. I say the steamer struck us forward of the main rigging, a little glancing. She was a propeller, I think. I could not tell whether she was backing or not. I mean by that I did not look to see whether she was backing or not.

Q. Did you give your attention to the cause of the schooner from the time she started across?

A. From the time we started from Governor's island I did. She never changed her course; could not tell how we were headed by compass at the time of collision.

ENOCK BLACKMAN.

Sworn to before me March 12th, 1867.

CHARLES D. INGERSOLL,
Notary Public N. Y. County.

Endorsed: U. S. district court, E. D. Henry P. Simmons & al. vs. the steamer "City of Paris." Deposition of Enock Blackman. Owen, Gray, and Owen, lib'ts' proct's.

Due service of copy admitted March 27th, 1867.

PLATT, GERARD, & BUCKLEY,
Proctors for Claimants.

June 20th, in evidence.

61 U. S. district court, in admiralty, eastern district of New York.

HENRY P. SIMMONS AND OTHERS
vs.
THE STEAMER "CITY OF PARIS," her engines, &c.

Deposition of James Kennedy, a witness examined this twentieth of June, 1866, by consent, on behalf of claimants:

Q. What is your age, residence, and occupation?

A. I am thirty-five years of age; reside at Liverpool, England; and

am a master mariner; have followed the seas 21 years; have been master of vessels in ocean steam navigation for ten years last past.

Q. Are you connected with the steamer City of Paris; and, if so, in what capacity?

A. I am master of her; have been master of her since she commenced to sail; she is a new vessel, and is now about to return to Liverpool on her third voyage.

62 Q. Were you on the City of Paris at the time the collision occurred between her and the schooner Heilner?

A. Yes.

Q. What part of the vessel?

A. On the bridge.

Q. Who was there with you?

A. The pilot.

Q. Please state the persons comprising the men of your vessel, who were on duty at the time of such collision and their respective positions?

A. The chief officer, Mr. Matherson, was on the look-out on the forecastle head, one sailor with him; the second officer had charge of the steering of the ship, four quartermasters at the wheel; the fourth officer was up aft the bridge to pass order to the second officer; the third officer before the bridge to pass order to the chief officer and all the engineers, six in number, on duty.

Q. What time did the City of Paris leave her dock on the morning in question?

A. About a quarter or 20 minutes past nine.

63 Q. How was the tide and wind as you came down by the Battery?

A. The tide was about slack-water; the wind was from the eastward, a moderate breeze.

Q. At what rate of speed had the City of Paris been going from the time she left the dock?

A. About five knots; the engines going slow.

Q. Had your attention been called to the schooner that subsequently collided with you, before it occurred.

A. Yes.

Q. Please state the position of the schooner in reference to your vessel when your attention was called to her.

A. The schooner would be about 4 points on our port bow, and a little under a quarter of a mile, as near as I should judge, off.

64 Q. Did you see what sail she was carrying?

A. Yes; she had all sails set, I think.

Q. Did you see how her main sail was?

A. She was coming before the wind; the main sheet was off.

Q. Please state now what was done on your vessel from the time you first saw the schooner till the collision?

A. When the schooner was reported, I saw he was steering to cross the bow of my vessel, apparently coming from the East river toward Jersey City; I put the helm astarboard to go astern of the schooner, and worked the indicator for the engines to go dead slow. When the schooner got about two points on our port bow, it appeared to me that the schooner made us out for the first time, as her course was altered all at once to come astern of us; afterwards, seeing that our helm was astarboard and our engines slowed, he tried to cross our

65 bows for the second time. When I saw her do that I stopped the

engines and reversed, full speed, to allow him to pass ahead and avoid a collision if possible; but it was impossible; our vessel had very little, if any, way on her; I think we were stopped; I could not see her move through the water. The schooner came in collision with us by her starboard main rigging; if we had had way on we would have gone through her; the schooner was low in the water.

Q. If the schooner had kept on her course, how would you have passed her?

A. We would have gone astern.

Q. Did you see the master of the schooner at any time at Mr. Dale's office?

A. I did.

Q. Did you have any conversation with him on the subject of the collision? If so, please state who was present and what transpired.

66 A. Mr. Dale and Mr. Nicholson were present, and the owner of the schooner. I asked the captain of the schooner how it was that he altered his helm, and he replied that he did not see us before, as there were so many vessels about. I replied that was very strange, as my ship was three times the size of any vessel there, and I think he said he was steering his schooner. That is all the conversation I remember.

Q. Please state whether the crew that were on your vessel at the time of the collision are with you now. I mean sailors, quartermasters, and engineers.

A. I have my officers and engineers, except the 4th officer, but none of the sailors or firemen, as the sailors & firemen when in Liverpool last voyage struck for higher wages.

Q. You say you starboarded when the schooner was seen; was your course actualy altered by that order?

A. It was. I know her head went to starboard, I mean to the left; I speak of her answering her starboard helm as we were steering with the wheel.

67 Q. Please explain what you mean by working the indicator.

A. I mean I sounded an alarm, which drew their attention to a dial-plate in the engine room, with a pointer indicating how the engine is to be worked.

Q. Did you observe the effect on the vessel of your signals in reference to the working of the engines?

A. I did. I could see the screw working. I could see the backwater and see the ship's way stopped.

Cross-examined:

The City of Paris is 375 feet in length, and is 40 feet beam; she is an iron screw steamer, and her engines about 600 nominal horse-power That was her first trip to New York. She was new, and runs between Liverpool and New York, touching at Queenstown. Her register is 1,669 tons, English measurement, I believe—within a few tons of that—that is what she pays dues upon. She had passengers, but very little freight aboard at the time; that was mostly cotton. She started

68 from her dock at pier 45, just above Canal street. I don't remember the name of the pilot. The bridge upon which I stood is a few feet before the funnel, and about 200 feet from the wheel-house. The bridge is elevated about seven feet above the hurricane deck. The mate was on the forecaste looking out; that is his place when the pilot is aboard. The mate first reported the schooner, and then I looked up and saw

her about four points on the steamer's port bow. The steamer was then going straight down the river, a little below the Battery, bound out to sea. I can't state exactly how she was heading by compass, because the pilot gives the courses as he steers by marks. There were a good many vessels lying at anchor in the stream off the Battery. I can't state how the schooner was heading by compass, without the chart, as I don't carry the bearings of the river in my mind, but she was steering apparantly from the East river over toward Jersey City. There was one vessel at anchor in a line with the schooner when she was first reported.

Q. What other vessels, if any, were lying there at anchor ahead of the steamer or upon either bow?

69 A. There was the one already mentioned on our port bow; there were some on either beam and other vessels away ahead; there was also one other on our starboard bow, I should say three points off. The one on the port bow on a line with the schooner was the furtherest off. When the schooner was first reported, these vessels at anchor were heading towards the eastward, the wind being stronger than the tide. The way these two vessels were riding, the steamer would have passed between them. The vessel on the steamer's port bow, I should think, lay about 700 feet off or over, and the one on the starboard bow, I should say, about 500 feet when the schooner was first reported. The schooner was standing when first seen by me, apparantly so as to pass both vessels on her starboard side. The two vessels at anchor were lying nearly on a line, and the schooner appeared to be sailing on a parallel with that line.

The steamer goes 14 knots when light, at her highest speed, or when leaving port, 12½ knots. It takes us, however, three hours after leaving the dock before we get the steam up. The steamer's bow and the schooner's starboard side abreast of the main rigging came in

70 collision. The schooner was going nearly square across the steamer's bow at the time. When the schooner was reported, the pilot and myself both ordered the helm astarboard. I said along with the pilot hard astarboard, and at the same time reduced the engines dead slow. I should think the steamer fell off about two points in answer to the starboard helm, and brought the vessel at anchor on the port side about 200 feet distance on the port bow, and about two points off. The next order was to stop the engines and reverse full speed. I worked the indicator myself. After the vessels came together, I started the engine first ahead slow to hold the schooner fast to the bowsprit, until I got the crew off the schooner on board, which we succeeded in doing with the exception of the captain, who jumped overboard and was picked up by a small boat. As soon as I got the men on board I reversed the engines, and when I got my bowsprit clear of her rigging she went down. She was hanging by my bowsprit. The conversation referred to by me was on my return trip after the collision. Mr. Dale is the agent of the line, and Mr. Nicholson the head of the passenger department. I

71 don't know how the captain came to be there; but I think it was probably to see if the matter could be settled. I found them there when I went in. I forgot all about it, because it was the voyage before last. I mean I forgot the day that I met them there.

JAMES KENNEDY.

Sworn to before me this 20th June, 1866.

CHARLES D. INGERSOLL,
Notary Public City and County of New York.

We hereby consent that the above deposition may be read at the trial of the above action by either party, as if taken pursuant to the statute before an U. S. commissioner.

New York, June 20th, 1866.

OWEN, GRAY & OWEN,
Libe'ts' Proctors.

Endorsed: U. S. district court. Henry P. Simmons & others against the steamship "City of Paris." Deposition of Kennedy. J.W. Gerard, jr., proc. for claimants.

72 U. S. district court.—In admiralty.

HENRY P. SIMMONS & OTHERS
ag'st
THE STEAMER "CITY OF PARIS," her engines, &c.

Deposition of Alexander Matthewson, a witness for the claimants in the above action.

I am twenty-six years of age; by occupation a mariner; I have followed the seas for 14 years; am first officer of the steamer City of Paris, and was so on the trip out when the steamer had a collision with a schooner; at the time of the collision I was on the forecastle head; had been there from the time the ship left her wharf; I was keeping a look-out; one sailor was seaboard along side of me also, he is not in the ship now; she was either abreast or a little below the Battery when I first saw the schooner in question; when I first saw the schooner the steamer was heading a little to the port side of the Narrows. When I first saw the schooner she bore 3 to 4 points off our port bow; think she was
73 400 yards off; she was heading across our bows; I called out, Schooner on the port bow; the third officer between me and the bridge repeated the hail—repeated what I had said; heard both captain and pilot call out starboard, hard astarboard; heard no gong sound or bell ring; did not hear any one repeat the order as to putting helm hard astarboard; when the order was given as to the helm there was a vessel on each bow; these vessels were at anchor with their bows heading to the eastward; should say we were then about 200 to 300 yards off the one on the port and rather less off the one on the starboard bow; after the order was given to starboard I observed the head of our vessel come af to port. When first I saw the schooner she was standing across our bow with a fair wind; when she got out of the range of the vessel on our port bow she put her helm hard aport with the intention of going astern of us, I think, and immediately put her helm astarboard again, resuming her original course. I say the schooner put her helm to
74 port because the schooner's head turned up the river in the direction of the North river; after the order to starboard the way of our ship was stopped, or nearly so; this was when we were close along side the vessel that was on our port bow.

When the schooner altered her course she was just coming out of range—just passing the vessel on our port bow; if the schooner had not altered her course, as I say she did, we would have passed between the stern of the vessel off our port bow and the schooner's stern; after she altered her course the first time she bore a couple of points on our port bow; the way of our vessel was stopped; she ported and immediately starboarded.

Q. How was the collision occasioned in your judgement?
(Objected to.)

A. By the schooner's twice altering her helm. If after our helm was starboarded the schooner had held on her first course, I think she would have crossed, as our ship was going very slow through the water, and I think even after she had ported there would have been no collision or not so bad a one; it was altering her helm twice which caused it. Before the schooner was reported the steamer was going very slow through the water, from three to five knots, I should say; just before the collision, I think, her way was almost stopped.

75

Cross-examined:

Neither of the four men who were at the wheel are at present with the ship; they were left on the last voyage at Liverpool. I should say it was three or four minutes after I reported the schooner before the collision.

When I reported her I heard the captain and pilot order the helm hard astarboard; I did not hear either of them give any other order in reference to the wheel after that; I do not think that the steamer's helm was continued hard to starboard up to the time of collision. I know it could not have remained hard astarboard up to that time, for if it had we should have run into the vessel which was at anchor on the port bow. The steamer passed that vessel about an ordinary ship's length off. The collision occurred immediately after we passed the vessel anchored on the port bow. I should think that the vessel which was anchored on the starboard bow was at the time of the collision about 600 feet off and about abeam, a ship on each beam. When the schooner put her helm to port, as I have stated, she bore about two points off the steamer's port bow, and was between two & 300 feet off from the steamer, and the vessel at anchor on the port bow was at the same time about an ordinary ship's length off from the steamer. I don't know the name of the man who was on the bow with me. He is not in the ship now. The other men were working at various jobs about the deck preparing the ship for sea. They were working under the charge of the boatswain's mate and boatswain. I had nothing to do besides looking out.

76

I did not observe how Governor's island bore from the steamer at the time I reported the schooner, nor did I observe how Bedloe island bore. I should think the steamer's head come up to port two or three points in answer to the starboard helm; I don't know that her head fell off any to starboard; I should judge that she came up to port two or three points and stopped there; I judged so from the surrounding objects. The steamer had no sails on. There is no compass forward where I stood; I should judge that the two vessels so lying at anchor on the port and starboard side of the steamer lay within about 900 feet from each other. The one on the starboard hand lay pretty nearly abreast of the other.

77

ALEXANDER MATHEWSON.

Sworn before me this 20th June, 1866.

JOHN J. RICE,
Notary Public N. Y. County.

We hereby consent that the above deposition may be read at the trial of the above action by either party, as if taken pursuant to the statute before an U. S. commission.

New York, June 20th, 1866.

OWEN, GRAY & OWEN,
Lib'ts' Proctors.

Endorsed: U. S. district court. In admiralty. Eastern district.
78 Henry P. Simmons & others against the steamer City of Paris, &c. Deposition of Matthewson for claimants. J. W. Gerard, jr., proctor for claimants.

79 U. S. district court, in admiralty, eastern district.

HENRY P. SIMMONS & OTHERS
ag'st
THE STEAMSHIP "CITY OF PARIS," her engines, &c.

Deposition of John Falton, a witness produced, sworn, and examined on the part of claimants in the above cause.

I am twenty-seven years of age; occupation is that of a mariner; was on the steamer "City of Paris" on the trip when she collided with a schooner off the Battery as second officer.

I was stationed aft at the wheel-house; took that station on leaving the dock; kept there till after the collision; my duty was to attend to the orders given from the bridge to look after the steering.

There were four quartermasters at the wheel on that occasion. They are not on board now; they left in the strike at Liverpool last trip. The fourth officer was between myself & the bridge; he did not come out with the ship this trip. Before the collision that day the first in-
80 timation I had of the schooner being ahead of us was a hail from the bridge, and hearing the bell ring to go dead slow. The hail I heard was "hard astarboard;" think both captain and pilot gave the order. The officer between me and the bridge repeated the order. When I heard the hail I immediately turned round to the quartermaster at the wheel and told him to put the wheel hard astarboard. The men at the wheel obeyed the order; when they sang out hard astarboard from the bridge & I heard the bell going, I looked up and saw the schooner a little off our port bow, apparantly going toward Jersey City. After we put our helm to starboard, the next thing I noticed was the schooner put her helm to port, and after that she changed her helm again, we in the meantime having turned our engines back full speed, the ship's way being stopped, the next thing I saw was the schooner right across our bow. Could not say what part of the schooner our bow was afoul of. Could not say how long we remained afoul for certain; time perhaps five minutes. No order as to course was given after that to star-
81 board. Could not say by compass how many points our course was changed by the order to starboard.

The course I know was changed by the order, because I saw the ship's head going off. They kept helm astarboard till the schooner got foul, and then, I believe, we steadied the helm, although at the time of the collision we had no steerage-way on.

Cross-examined:

My duty was to attend to any order given from the bridge. I was forward of the wheel-house. The men at the wheel stand behind me and lower, so that their head & shoulders are above the deck, just so that they can see the ship's head. The steamer answers her helm quickly. The men had got the wheel hard astarboard before the collision. They had got it so before the order to stop & back. I can't say how long it had been so before that order. I heard the order hard astarboard two or three times. I did not recognize who it came from. The pilot has

charge of the ship, and I presume the master was there as master of the vessel. I was watching the bridge all the time. I had had orders to move the wheel after leaving the dock and before that particular
82 order. I can't state how many different times I had been ordered to change the wheel; when this order came I saw the schooner; I could see her somewhere over the port cat-head, or over the fore-rigging somewhere there. I think the schooner was then five or six times the length of our vessel off, but I could not tell anything about her distance as my position aft prevents me. I can only say that the schooner put her helm to port by her head falling off, and when she saw she could not go back, then she put her helm down and tried to go across our bow. I could only see the masts and sails of the schooner from where I stood. I cannot say how far distant the schooner was at that time; she appeared to be very close to us. There was a vessel on the port side at anchor, but I can't say how near she lay to the steamer. The steamer was not steered by compass, but by orders. I can't state how the steamer by compass when the order was given to starboard, nor afterwards. I did not get any other order from the bridge before the collision. The way I know that the engine was working backward was that I saw back-water over the side of the vessel.

JOHN H. FALTON.

83 Sworn to before me this 20th June, 1866.

CHARLES D. INGERSOLL,
Notary Public.

We consent that the above deposition may be read on the trial of the above-entitled action by either party with the same effect as if taken before an U. S. commissioner pursuant to statute.

OWEN, GRAY & OWEN,
Proctors for Libellants.

Endorsed: U. S. dist. court E. D. of New York. Henry P. Simmons agst. the steamship "City of Paris," &c. Deposition of John Fulton for claimants. J. W. Gerard, jr., proc. for claimants.

84 U. S. district court, in admiralty, eastern district.

HENRY P. SIMMONS
vs.
THE STEAMER "CITY OF PARIS," her engines, &c.

Deposition of Robert Hamilton, a witness examined this twentieth of June, 1866, by consent, on behalf of claimants.

I was on the City of Paris on her trip out from this port when she collided with a schooner; I was chief engineer and was on duty in the engine room at the time of the collision. When we left dock we were going quarter speed; we were going slow.

Before the collision the bell was rung, and the indicator on the dial pointed to dead slow. I obeyed the order and slowed the engine.

Immediately after that there was an order given to stop and reverse full speed, which we did; can't tell how soon after that was the collision, as I felt no shock.

85 The next order was to turn ahead dead slow; then we stopped and backed.

Cross-examined:

The steamer left the dock at 15 minutes after nine, and at about 9.25 I was ordered to slow down, and at 9.30 I was ordered to stop and back; I know this from my log-book. The entries were made on a slate first and then copied. I have not my log-book here.

The engines carries 30 pounds of steam when going at her highest speed of fourteen knots; she was carrying 15 pounds of steam after she left the dock and before the collision. I assisted at the engine. It was about three minutes after the order to stop and back before I was ordered to go ahead again; I am not so positive about this; I did not put down the time when ordered to go ahead in the log-book. It took thirty seconds to execute the order to stop and back. The order to slow can be executed in a couple of seconds.

ROBERT HAMILTON.

Sworn before me this 20th June, 1866.

JOHN J. RICE,
Notary Public.

86 We hereby consent that the above deposition may be read at the trial of the above action by either party, or if taken pursuant to the statute before an United States commissioner.

New York, June 20th, 1866.

OWEN, GRAY & OWEN,
Libellants' Proctors.

Endorsed: U. S. district court, in admiralty, eastern district. Henry P. Simmons & others vs. the steamer "City of Paris," &c. Deposition of Hamilton for claimants. J. W. Gerard, jr., claimants' proctors.

87 U. S. district court.—Before Hon. Judge Benedict.

HENRY P. SIMMONS *et al.*
vs.
THE STEAMER CITY OF PARIS. } 1st day.

MONDAY, *April 22d*, 1867.

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	Direct.	Cross.
Henry Harburson	3	17

88 For libellants, Mr. Owen.

For respondents, Messrs. Buckley and Benedict.

Mr. Owen opened the case on the part of the libellants, and read the libel.

Mr. Buckley read the answer.

Mr. Owen put in evidence the following depositions, which are considered as read:

Robert C. Grace, master.
John Clayton, steward.
Charles Steward, seaman.
Enock Blackman, seaman.

Libellants rest.

89 *Respondents' testimony.*

Mr. Buckley put in evidence the following depositions:
James Kennedy, master.
——— Matthewson, 1st officer.
John Fulton, quartermaster.
Robert Hamilton, chief engineer.
& Jacob Lockman, Sandy Hook pilot.

(Respondents' counsel offer in evidence statutes of the State of New York relating to pilotage.)

Henry Harburson, a witness for the respondents, being duly sworn, testified:

Examined by Mr. Benedict:

Q. What is your business?
A. I am pilot, sir.
Q. Sandy Hook pilot?
A. Yes, sir.
Q. How long have you been pilot?
A. 20 years.
Q. Were you regularly licensed at the time?
A. Yes, sir.

90 Q. Were you in charge of the City of Paris at the time of this collision?
A. I was.
Q. Where were you standing on board of her?
A. I was standing on the bridge—the steamer's bridge.
Q. Whereabouts is that?
A. That is nearly amidships of the steamer—just forward of the steamship's funnels—a little forward of midships.
Q. Is it elevated?
A. Yes, sir; it is elevated considerably; I don't know how much.
Q. Is there anything to interfere with your view in front of it?
A. Nothing at all; you have a clear view.
Q. Can you recollect how the tide was as you went down the river?
A. Yes, sir; I do.
Q. How was it?
A. The tide was ebb—the last of the ebb.
Q. As you came down toward the Battery, how was the river as to vessels?
A. The river that day was very full of vessels; so full that it was a pretty difficult matter to pick a passage out for the ship. The captain and myself consulted together and kept a pretty bright look-out

91 in order to get a proper passage to go through. Ships were riding athwart the North river, with the wind about E. N. E., blowing a pretty strong breeze—about a five-knot breeze—five or six knot breeze.
Q. How was the steamer going as she came down toward these vessels as to speed?
A. Well, sir, she was going slow; we always do go as slow as we possibly can; just enough to keep steerage-way on her when the river is so full of vessels. I suppose she was going about five knots.
Q. Did you see the schooner that was sunk?
A. Yes, sir.
Q. Where away did you first see her?

A. I saw her on her port bow some little distance, I suppose half a mile.

Q. Which way was she apparantly coming?

A. She was coming right before the wind then, with her main sheet well off—off as well as it could be in fact—heading directly over for Gibbet island, probably about W. by N.

Q. (Court.) That is Ellis island?

A. Yes, sir; she was heading about for that island.

92 Q. About how wide was the passage that lay before you between the vessels at anchor?

A. Well, I should think about 400 yards.

Q. (Court.) The passage which you picked out?

A. Yes, sir; the ships were all head to the eastward, riding directly athwart the North river, the wind being stronger than the tide. I should judge it was about 400 yards. I know the passage was pretty narrow and we talked it over among ourselves so as to get through—so as to go under the stern of the vessels lying on the port side and go ahead of the vessels lying in the starboard bow.

Q. Can you give us the vessels?

A. There was a brig on the port bow and the ship would be on the starboard bow, a little below, toward Bedloe's island.

Q. When you first saw the schooner, where away was she with reference to the vessel on your port bow?

A. Well, she had the brig on her port bow and below her—somewhat below her—probably a couple of hundred of yards was the ship I should think. It seemed as though her intention was to come up

93 under this brig's stern, to go between the brig and steamer.

Q. Was it in a line, or on either side?

A. On the eastern side below her.

Q. As you looked then at the schooner, did you look over the vessel at anchor—the brig?

A. Looked right directly over her so that the schooner would really be to the eastward, toward Governor's island—to the southward and eastward.

Q. As you looked at the schooner you looked over this brig?

A. Yes, sir.

Q. (Court.) And she bore, how, by compass then?

A. I should judge then about S. E. by E., or thereabouts.

Q. From your vessel?

A. I should judge so thereabouts.

Q. How did you think at that time that she would go with reference to your vessel when you first saw her?

A. We thought she would go ahead of us.

Q. Was anything done on your vessel at that time?

A. Yes, sir.

Q. What was it?

94 A. We starboarded our wheel; gave orders to stop the wheel, and stopped the ship or slowed her. I think we stopped because she was going pretty slow at the time, so as to give the schooner an opportunity to go by.

Q. How far to the starboard could you swing?

A. We could not swing over two points.

Q. Why not?

A. Well, it would put the ship in a very dangerous position.

Q. With reference to what?

A. With reference to the tide and this brig lying on our port bow.

Q. Your object was to go as close to the brig's stern as you could with safety?

A. Yes, sir.

Q. Did you keep your eye on the schooner as she approached?

A. I did.

Q. Did you see any change in her course?

A. I did.

Q. What change first?

A. I saw the schooner put her wheel aport and luff up, intending apparently to come in between the brig and ourselves, and on the
95 strength of his doing that, we backed the steamer—backed hard; told Captain Kennedy to back hard; we backed, and then the schooner altered his wheel again; hove his wheel up, evidently thinking the ship was going ahead, instead of which we were backing all the time; he hove it well up and attempted to go across our bow again, and I think that he put his wheel down again aport after he got directly ahead of us, so as to bring her up again.

Q. Whereabouts was the schooner at the time when you saw this luff?

A. The schooner was then on our port bow.

Q. Whereabouts was she with reference to the stern of the brig at anchor?

A. She was about abreast of the brig nearly; that is, north and south.

Q. Had she opened out by the stern of the brig?

A. Just about coming open with the stern.

By the court:

Q. How far below the brig was she?

A. I should think about 100 yards.

Q. Towards quarantine?

96 A. Yes, sir; I should think 100 yards, may be less; pretty close to the brig.

Q. If she had come on just as she was then, how would she have passed with reference to the brig's stern?

She would have to shave pretty close; 20 yards.

Q. Her course as you saw her would have brought her within 20 yards of the stern of the brig?

A. Yes, sir.

Q. When you first saw her?

A. Yes, sir.

Q. And how was she bearing by compass on her course when you first saw her?

A. About W. by N. or W. N. W.

By Mr. Benedict:

Q. What was the effect of the luff upon her course with reference to the vessels at anchor—the brig?

A. Well, I don't exactly understand that question.

Q. How long did she continue her luff?

A. A very little while; it seemed to me to be about long
97 enough to get his wheel down and then altered his mind and hove it up again; he appeared to be in a confused state; got frightened, and didn't know exactly what to do.

Q. How much change of his course did that make?

A. Why, I suppose it would make 3 points, three or four points; those schooners swing very quick.

Q. And how far above the brig at anchor was your vessel at that time?

A. We were pretty close to her.

Q. (Court.) How many lengths of the ship?

A. Not over a length and a half, I should think, of that ship.

Q. (Court.) Of the steamer from the brig's stern?

A. Yes, sir; I should think about a length & half.

Q. How did the two vessels come together?

A. The steamer came in collision with the schooner's starboard bow, or rather the steamer's jib-boom caught the schooner's foremast—just the end of it—the schooner going across the steamer's bow, and carried the foremast away, and I suppose the steamer ran into the schooner about amidships; came together, the schooner's beam about on the steamer's bow.

98 Q. Now, from the time that the schooner luffed, was there anything that could have been done on your vessel except to reverse the engine?

A. No, sir; we could not do anything else; nothing else could be done but reverse the engine and go back, because, as I said before, it was a very narrow passage, & we were in a pretty tight place, and the only thing we possibly could do was to reverse the engine and go back on the steamship, and that was done, so that when the steamer struck the schooner it was nothing more than the weight of the ship that did the damage it did. Of course, it takes some little time for these vessels to reverse their engines and go back, particularly if they have a little tide with them.

Q. What became of the crew of the schooner?

A. I think there were three of the crew climbed up over the steamer's bow and got on board; three, I am pretty certain. I had a talk with them afterwards.

Q. What conversation did you have with them?

99 A. I asked them how they came to change their minds so often, shifting their course. They said they did not know; they did not see the ship until they had got very close to her, and did not know what to do exactly.

Q. Do you recollect about the schooner's hanging on to the bowsprit?

A. Yes, sir.

Q. State what the facts were about that.

A. The schooner was hanging on after the foremast was carried away, hanging on by the steamship's bow; we were in this tight place, this critical position, with the ship on our starboard side and vessels lying below, so that we were really compelled to hook the schooner on. I told Captain Kennedy we must hook her on and put the ship on full speed; so he did, and rang the bells to go ahead full speed in order to go by the ships below, or we would have raked those vessels, or they would have raked us, and done more damage than sinking a dozen schooners, and as soon as we got below, a little out of danger, a little room, then

100 we stopped the steamer, backed on her hard—backed out from the schooner, and she went down.

Q. When you saw the schooner, why did you put your helm to starboard?

A. We should go into the brig.

Q. You say when you saw the schooner you put the helm starboard; why was that?

A. That was in order to give the schooner chance to go ahead of us,

to stop as much as we possibly could, so that he would see what we were about.

Q. And if the schooner had not luffed, what would have been the result?

A. She would have gone ahead of us clear.

Q. (Court.) How much would she have cleared your stern?

A. I should think she would have cleared us 200 yards if she had not luffed; it was the luffing and then keeping away again, that occupied the time and brought her into us; his altering his mind, getting his wheel down, luffing, swinging 2 or 3 points up at us, then alter-
101 ing his mind again and swinging her off, that took all the time; he coming across here, and we coming down, here he luffs up first, then alters his mind, swinging her off again to go ahead of us. All this occupied time, and the consequence was they both came together.

Q. Where did you calculate to pass her when you put your helm starboard?

A. Calculated to pass under the schooner's stern.

Q. (Court.) And cross astern of the brig?

A. Astern of the brig.

Q. When he changed his course, could you have gone to starboard?

A. No, sir; not any more than we did.

Q. I don't mean put your helm starboard; I mean after he changed his course & luffed, could you have put your head to starboard, and gone further to the right of him; that is, ported your helm?

A. No, sir; we could not port at all, because these ships were right on our starboard side; we could not possibly go any more to starboard; we could not port the wheel, for that would swing us afoul of the ships below.

102 Q. You spoke of this ship that lay on your starboard bow; were there other ships lying below her?

A. There were.

Q. Which way were those vessels that lay below her, to the eastward or westward?

A. To the eastward a little.

Q. Did you have any conversation with this captain of the vessel at the office?

A. I did; yes, sir; but I scarcely remember what it was now; it was in reference to his changing his course; however, I know—I think I asked him why he shifted his course so often?

Q. What answer did he give?

A. I really don't remember now.

Cross-examined by Mr. Owen:

Q. State what hour you left your dock up at Canal street.

A. About 20 minutes after 9, I think, in the morning, if my memory serves me right.

Q. That is, you cast off?

A. We started from the dock.

Q. That dock is foot of Canal st., is it not?

A. Yes, sir; just above Canal street.

103 Q. How far is it from that dock to the place of collision?

A. Well, I suppose it is 2 miles.

Q. What were the men forward with the mate doing?

A. They were on the look-out.

Q. All of them?

A. Every person on board the ship—sailors, mates, all hands—at their

stations; and they stationed them at their particular places of duty when the ship starts from the dock, the mate on the forecastle with the sailors, and the captain and pilot on the bridge, quartermasters at the helm, and an officer on the look-out.

Q. What were those men doing when they first leave the dock—the men on the forecastle?

A. Doing nothing particular, except watching the captain's orders, ready to let go the hausers, ropes, and anything else that needs attending to.

Q. And the mate is there, seeing that they attend to those orders?

A. Yes, sir; and keeping a look-out.

Q. They all keep a look-out?

A. Yes, sir.

104 Q. What first called your attention to the schooner?

A. From the position in which she was coming.

Q. Was it from the report of the mate or any one at the look-out? Did you see the schooner before she was reported by some one forward?

A. I would not be positive, but it is quite likely.

Q. You don't remember that you did?

A. No, sir; I think it is quite likely.

Q. Was there a report from forward at all?

A. I think there was.

Q. When? Before or after you put your helm to starboard?

A. Before.

Q. How long before?

A. Well, I could not say exactly how long.

Q. What did you do upon the report being given?

A. The captain and myself were looking at the schooner, and starboared our wheel; thought the schooner was going ahead of us.

Q. How much did you put it to starboard?

A. I suppose the ship swung to port a point or two points to the eastward.

105 Q. Did you continue the wheel to starboard up to the time of the collision?

A. No, sir; we could not do it.

Q. Did you give any order to change the wheel after you starboarded?

A. We did.

Q. When?

A. After she had done swinging this point and half, then we ordered the wheel steady—stopped the ship.

Q. What was the order?

A. Steady the wheel.

Q. That means bring the helm amidship?

A. Yes, sir.

Q. And to check the swing?

A. And check the swing—keep the ship's head steady.

Q. Do you have to lay it over any to the other side in order to check the swing?

A. We have sometimes.

Q. Was it necessary on this occasion, with the tide as it was?

A. No, sir; I think not.

Q. When you ordered them to steady the helm, how near were you to the brig?

A. Well, I should judge 150 yards.

106 Q. How near were you to the brig when you ordered the wheel starboarded?

A. I suppose 200 yards—250 or 200 yards.

Q. How were you steering, if there had been no schooner there, in reference to the passage between the brig and ship? Were you to go nearer the stern of the brig or nearer the bow of the ship?

A. About midway. We were calculating to go as near the middle as possible, to give the vessels a good berth and give our vessel an opportunity to swing either way.

Q. When you ordered your helm to starboard the first time, how far distant do you think the schooner was from you?

A. I should think she was half a mile.

Q. That would carry her a good way beyond the brig. She was as much farther beyond the brig as you were above the brig?

A. Just about the same distance, I should judge.

107 Q. How near had you come to the brig when you ordered your helm to be steadied?

A. About 100 yards.

Q. Where was the schooner then in reference to the brig?

A. The schoner was then in about a line north and south with the brig.

Q. She would be about abeam of the brig?

A. About abeam of the brig, or probably our jib-boom coming out of the brig's stern.

Q. How near to the stern of the brig was the collision?

A. I suppose about 150 yards—100 yards.

Q. To the southward?

A. To the southward, below.

Q. How much to the westward of the line of the stern? Any?

A. Yes.

Q. How much?

A. I suppose 100 yard or 150 yards.

Q. To the westward?

A. Yes, sir.

Q. When you gave the order to starboard your helm, was there any order given to the engineer?

A. There was.

108 Q. By whom?

A. By the captain.

Q. What was that order?

A. That order was to slow—slow the ship.

Q. Had the schooner luffed before you put your wheel to starboard?

A. She had not.

Q. Had she luffed before you ordered it steadied?

A. She had.

Q. How long before?

A. Well, directly.

Q. Directly, how?

A. Almost in the moment after the order was given to starboard, then we found the schooner luffed, which was directly opposite to what we supposed she would do; we supposed she would keep her course and go ahead of us, and when we found she put her wheel to port again to luff, it was our duty to steady the ship, not to swing up at her.

Q. Do you mean to say that you steadied your ship because she luffed?

A. Yes, sir.

109 Q. How far was she at that time from your bow?
A. I should suppose about 150 yards—200 yards.
Q. And how far were you from the stern of the brig then?
A. Probably about 100 yards.
Q. Was there any order then given after you saw that luff—any other order given?
A. Yes, sir.
Q. What was that?
A. Then I told Captain Kennedy to back the ship, and back hard; and he on that moment touched the indicator and did so; it was the only possible thing we could do—back hard, full speed.
Q. Did you not steady your helm because of the danger of running into the stern of that other vessel?
A. Not altogether.
Q. Partly that?
A. Partly; but mostly on account of the schooner.
Q. If you had kept the helm to starboard and had not steadied it, would you have run into the stern of the brig?
A. No, sir.
110 Q. Would you have been in great danger of doing it?
A. We could have come close to her.
Q. How close?
A. Well, probably within touch and go; might probably have rubbed along side of her almost.
Q. And you could not starboard afterwards on account of the vessel lying to the starboard bow of you?
A. I said port.
Q. I mean so as to swing to starboard; that is the reason you could not do that?
A. Yes, sir.
Q. Who places the men on the look-out, you or the captain?
A. The captain.
Q. Who ordered the helm, you or the captain, or both?
A. I did, sir.
Q. Did not the captain also?
A. He might possibly; sometimes they do.
Q. You don't remember whether he did or not?
A. No, sir; I think he did with me sing out, Starboard.
111 Q. Do you recollect seeing this gentleman (Mr.) down at the office?
A. Yes, sir.
Q. Was there any conversation on the occasion when you saw him there in reference to the collision?
A. I think there was; there was a sort of rambling conversation. I saw this gentleman with the captain, Mr. Dale, and myself; that was the day after the collision.
Q. Was he present when you asked the captain why he put his wheel to port?
A. I think he was; in fact, I am positive he was.
Q. Don't you know that the captain denied that he put his wheel to port on that occasion?
A. I do not; in fact, I don't think he did deny it.
Q. Were you not asked why you did not starboard your helm at that time; and did you not state you could not, if you had done so you would have ran into this brig?
A. I don't remember that I did.

Q. Anything to that effect?

112 A. I might have said it would bring me close to the brig, or mentioned the brig's name; I don't know that I did at the time.

By the court:

Q. I understood you to say that your helm was amidships when you rung to back?

A. Yes, sir.

Q. Was there any change made after that before the collision?

A. No, sir; no change.

Q. When your propeller backs, which way does she swing?

A. I don't know; some swing to starboard.

Q. This one?

A. I think it brings her head to port; some are left-handed and some are right-handed. I would not be positive about this one, but I think it brings her head to port.

Q. The mere action of the screw?

A. Yes, sir.

By Mr. Owen:

Q. You said it was the last of the ebb; about how much current?

113 A. I suppose the tide was running probably about a knot and half; the last of it goes down pretty strong in the North river, and I suppose a knot & half current at that time.

Re-direct:

Q. Am I to understand that a knot and half was your speed at that time?

A. No, sir; that is the current itself; of course it could not carry the vessel on at that rate of speed; the current itself is about a knot and half.

Q. And your speed at the time with the tide was about how much?

A. About 5 miles.

Q. (Court.) By the land?

A. Yes, sir; by the land.

Q. Where you were on the steamer, did you see any back-water?

A. I did; I observed it when the engine re versed; we see the water coming up from aft forward.

Q. (Court.) From a screw?

A. From a screw; you will see it heaving out; it creates a suction; when she goes she leaves it.

Q. This is what is technically called the "back-water?"

A. Yes, sir.

Q. You observed that?

114 A. I did, sir.

Q. (Court.) Going along in still water with this steamer, how long before you could get her stopped?

A. I suppose she would run a quarter of a mile.

Q. Before you could get her dead still?

A. Yes, sir.

Q. (Court.) And in such a tide as this how long would she run?

A. It would take nearly half a mile, I should judge.

Q. To get her dead still in the water?

A. Yes, sir; with the great weight and great length of these vessels, going as slow as you can with the tide, it would take her sometime to get backed.

Q. When you first saw the schooner, why did you not stop entirely and back then?

A. Because we thought she had plenty of room to go ahead, and that was the object; and so she had if she had kept her course.

Q. You have given some measurements of distances here; I suppose we are to understand as estimated?

115 A. Of course; my judgement: I am not very nice on calculations.

Q. As to the time and distance both?

A. Yes, sir; I do the best I can according to my judgement.

Q. You say that she could have had plenty room to go ahead; was there anything in the way to prevent her passing along the schooner if she had not luffed?

A. Nothing at all; in fact, the schooner did not do right; he was away below his ground where he ought to have been; he was heading for Ellis island when he really wanted to go to Jersey City; he should have luffed up round the Battery, and then headed up the North river instead of coming two-thirds of the way across as he did, getting himself on a lee shore; it was bad judgement in any shape.

Q. How much more conspicuous was your steamer than the brig—I mean your hull above the brig's hull?

A. I should judge 20 feet—a great difference.

Re-cross:

116 Q. Could the brig in any manner have obscured your view of the schooner?

A. No, sir; not in the slightest; nor could not have obscured the view of those on board the schooner.

Q. And your look-out could have seen this schooner way down to Governor's island, so far as the vision is concerned?

A. Yes, sir.

Respondent's counsel read in evidence the deposition of Jacob Lockman.

Adjourned till April 23d, 1867, at 12 m.

117 U. S. district court, in admiralty, E. D.

HENRY P. SIMMONS & OTHERS *ag'st* THE STEAMER "CITY OF PARIS," her tackle, &c.

Deposition of Jacob Lockman, a witness examined by consent for the respondents this 4th day of January, 1867.

I am twenty-four years of age. I am a Sandy Hook pilot; have been a pilot for about two years; am going to sea this afternoon. I saw a collision which occured in the North river on the 14th April, 1866, between a schooner and the steamer City of Paris. I was on board at the time of a brig called the Hermina. That vessel was lying a little below Ellis island; she was at anchor; her bow was pointed toward Brooklyn; the wind was about E. N. E., blowing out of the East river across into the North river; the tide was the first of the ebb; I was aft on the stern of the Hermina.

Q. Did you see the schooner which collided with the steamer as she came up to your vessel?

118 A. I did. I saw the schooner before I saw the steamer.

Q. Was there another vessel at anchor abreast of you?

A. There were several vessels there, but there was one there laying below, & a little astern of me; she was at anchor. I can't remember the position of the other vessels around there, because I did not take particular notice.

Q. Can you state the width of the opening between you and the other vessel at anchor?

A. I should think about 400 yards.

Q. How was the schooner when you first saw her headed, with reference to this opening and the 2 vessels at anchor?

A. She was running down between the two, headed more to the stern of my vessel than the bow of the other.

Q. Before the collision occurred, did you notice whether the schooner's course was altered; and, if it was, state where and how?

A. I can't say the man altered the wheel, because I did not take notice of that, but the schooner came to, luffed a little, and then kept off immediately after she luffed; if he had kept on luffing he would have gone clear; there was plenty of room to go between the steamer & my
119 brig; when the schooner luffed she was about abreast of my stern; when he kept off he was about half-way between the range of my stern and the steamer.

Q. Can you state what the steamer was doing before the collision?

A. The steamer was stopped & going back, but she was going very fast through the water; she could not stop her headway. I mean by stopped & going back that her engine was reversed; I could tell that it was by looking at the way it was working in the water—by looking at the screw. At the time of the collision, as well as I can remember, the steamer was going 3 to 3½ knots through the water. The bowsprit of the steamer caught the forerigging of the schooner first, & then the stem struck a little forward of the mainmast.

The schooner's sails were on the port side; she had the wind free as she was going over.

The captain was picked up by a boat from alongside our brig.

Cross-examined:

I don't know where the brig Hermina belonged, but she was from Rio. I brought her in & came to anchor about half an hour before the collision. The captain, mate, and I suppose the crew—I don't remember, I guess they were—were on deck. The captain had just come on deck. I was waiting for the captain to get his papers to go ashore. I can't say what the crew was doing; they were doing some work about deck. I noticed the schooner first; I saw the schooner & then turned around & saw the steamer coming down.

Q. How far off was the steamer when you first saw her?

I suppose she was twice as far off as the schooner and about one-eighth of a mile; she was then heading right across my stern, and if nothing had happened she would have gone about 200 yards from the stern of my vessel. I suppose she was coming along about nine knots—nine or ten knots. She was bound out to sea. It was eight or ten minutes after I saw the steamer before the collision. I can't tell very well what place the steamer was abreast of when I first saw her; she was below the piers. I think she was a little below Castle Garden, although she was on the Jersey side of the river. My brig was the northerly one of the two vessels which lay at anchor as I have stated.

Q. What was the distance between the stern of your vessel & the bow of the other?

About 400 yards. These distances I can't remember, because it is so long ago, and I have not thought anything about it since. If the two vessels had laid abreast of each other, they would have been about 400 yards apart. I am not positive about these distances. I knew the steamer "City of Paris" as soon as I saw her. I knew that was her return trip on her first voyage.

Q. After you saw the steamer did you watch her movements?

A. I watched the schooner more than I did the steamer. I saw she was going into danger.

(Answer objected to by lib'ts' proctors.)

Q. Question repeated.

I did.

Q. Did you watch her movements all the time until the collision?

No, sir.

Q. Did you change your place from where you were standing?

A. No, sir.

Q. How far astern of your vessel was it to the place where the collision occurred?

A. About 3 or 400 yards.

Q. How did the schooner bear from you when you first saw the steamer?

She was running down toward our starboard quarter when I
120 first saw her, and when I first saw the steamer the schooner was running in the same direction, but had not got down to my vessel; she passed about 100 yards, I suppose, from the stern of my vessel.

Q. Do you know the name of the other vessel which lay at anchor?

No; I can't tell whether it was a barque or a ship.

Q. Who was the pilot on the steamer?

Henry Harbinson; he does not belong to our boat; he is a Sandy Hook pilot.

Q. Did you see any persons on the steamer as she came down?

A. I saw the captain & pilot on the bridge; I suppose it was the captain; I can't say; it was a man in uniform.

Q. Can a screw propeller be stopped and back as quickly as a side-wheel steamer?

A. I can't say; I don't understand machinery.

Q. How far off was the steamer when you say the schooner luffed?

A. I suppose about 500 yards, as near as I can remember.

Q. How far do you think she was distant from you when you say the schooner kept off?

A. At the time the schooner kept off I should think the steamer
121 had gone one hundred yards & had lessened the distance by that amount; I can't say that she went through the water that distance, but she lessened the distance that much.

Q. When you first saw the schooner and as she passed your vessel, was she sailing on about a parallel line with that on which your vessel lay?

A. No; she was running more quartering toward us.

Q. How far was the steamer from your vessel when you noticed that her engine was reversed?

I should think about 350 yards, not quite 400 yards. These distance I cannot be exact about.

Re-direct:

Q. When you say the distance was lessened 100 yards, do you mean that it was lessened by the combined movements of the two vessels?

A. Yes; but the steamer lessened it more than the schooner the way they were going. I can't tell the time of day the collision occurred.

Re-cross:

There were a good many vessels at anchor above and below
122. where I was; I think there were not many vessels under weigh.

JACOB B. LOCKMAN.

Sworn to before me this 4th January, 1867.

JOHN J. RICE,
Notary Public N. Y. County.

This deposition may be read by either party on the trial of the above action without proof of the witnesses' adsence.

New York, January 4th, 1867.

OWEN, GRAY & OWEN,
Lib'ts' Proctors.

Endorsed: U. S. district court, eastern district of New York. Henry P. Simmons & al. ag'st the S. S. City of Paris. Deposition of Jacob B. Lockman, witness, de bene esse, in part of claimants. J. W. Gerard, jr., proc. for claimants.

123 U. S. district court.—Before Hon. Judge Benedict.

HENRY P. SIMMONS *et. al.*
vs.
THE STEAMER "CITY OF PARIS."

TUESDAY, *April 23d*, 1867.

Index.

124 Calvin B. Camp, a witness for respondents, being duly sworn, testified:

Examined by Mr. Buckley:

Q. You are a resident of the city of Brooklyn?

A. Yes, sir.

Q. You do business in the city of New York?

A. Yes, sir.

Q. Were you a passenger on the steamer City of Paris on her trip from this port in 1866, when she collided with this schooner?

A. I left on the City of Paris on the 14th of April, 1866.

Q. Her trip from here to Liverpool?

A. Yes, sir.

Q. Do you recollect the collision that took place between her and the schooner?

A. Yes, sir; I have some recollection of it.

Q. Where did that collision take place?

A. Very soon after we left our dock.

Q. In reference to what part of the city of New York—below the Battery or above?

A. I could not state positively, but it seemed to me as though
125 we had only been from the dock a moment. My first impressions

would be that it was only two or three moments after we left the dock; but I saw when the schooner sank that we were a little below the Battery.

Q. Where were you at the time the collision occurred; what part of the vessel?

A. I don't recollect distinctly, sir.

Q. Were you on the upper deck?

A. I was on the upper deck; I should say in the after-part of the vessel.

Q. Before the collision, what was the motion of the steamer through the water?

A. Very slow and very still.

Q. She is an iron steamer, I believe?

A. Yes, sir.

Q. How did the two vessels come together? Did the steamer strike her full or at an angle; and, if so, at what angle?

A. I don't know that I can describe exactly how she struck her; my impressions would be that she did not strike her full; she struck her obliquely.

Q. Which way was the steamer headed at the time the two
126 vessels came together, toward Jersey or toward Brooklyn?

A. Well, headed down the river perhaps more directly.

Q. On which side of the steamer was the schooner just after the collision, on the right or left side?

A. She was on the right side of the steamer.

Q. On the starboard side?

A. Yes, sir.

Q. How long did the two vessels remain together?

A. I don't know, sir, the exact time; I should think from one to two minutes; perhaps longer.

Q. And then the steamer backed off?

A. I don't know whether she backed off or not; all I know is, that the momentum of the steamer seemed to carry the schooner up some little distance; the schooner caught in the rigging or in the bow of the steamer, and was apparantly held up some little time by the steamer, but afterwards she swung round the bow of the steamer, and in the course of a few minutes sank. It appeared as though the steamer carried
127 her along; but the fact of her swinging round would seem to imply that the steamer slowed her speed and backed out of her.

Q. How long before the actual collision did you notice the schooner?

A. Not more than ten seconds.

Q. And was in the very act of collision?

A. It was a very few moments after I first saw the schooner that we struck her.

Q. Were there any vessels below the steamer?

A. There were several vessels in the immediate vicinity of where we were; whether they were sailing or not I could not say, for we were in great consternation from the fact that we were coming in collision; saw that a collision was unavoidable.

Q. Do you know whether there was a vessel at anchor on each side of you?

A. There were vessels on each side of us; whether at anchor or moving I could not tell, as my attention was only called to the fact that we were coming into collision, which occupied every person's attention on board the steamer; they had no time to look at surround-
128 ings.

Cross-examined by Mr. Owen:

Q. What first called your attention to the schooner?

A. The fact that we were coming in collision.

Q. Did you hear any order on the steamer; anything that excited your observation?

A. The consternation among the passengers. The upper deck was crowded with passengers, and the consternation among them was what called my attention, and seeing the fact that we were coming in immediate collision with this vessel.

Q. Did you hear any report from the men forward, or any order from the pilot on the bridge?

A. There were orders going backwards and forwards, and cries among the passengers. I don't distinctly recollect any of them.

Q. All at the same time?

A. Yes, sir.

Q. How near were you to the brig on your port bow, left-hand side, at that time?

129 A. I could not say; we were in the immediate vicinity of vessels on each side.

James B. Camp, a witness for respondents, being duly sworn, testified:

Examined by Mr. Buckley:

Q. You are a son of Mr. C. B. Camp, the last witness?

A. I am.

Q. Did you accompany him on this trip that he referred to?

A. I did.

Q. Where were you standing when you first observed the schooner?

A. Near the wheel-house, toward the stern of the vessel.

Q. Where were you at the time the two vessels came together?

A. I was near the foremast.

Q. What did you do when you observed the schooner; did you run forward?

A. I did.

Q. And by the time you got forward to the foremast the two vessels came together?

A. They did.

Q. Will you be kind enough to tell the court how they came together; whether the steamer struck the schooner full or quartering?

130 A. The steamer struck the schooner quartering; the exact part of the schooner it struck, I could not tell; only as it appeared to me it struck the schooner quartering.

Q. Immediately after the collision, did you look over the starboard side of the steamer?

A. I did.

Q. Just describe the position of the schooner at that time.

A. I ran up on the port side of the steamer, seeing the vessel coming from that side, and after it struck I went over on the starboard side to see the schooner; it struck and pushed the schooner along with us for some little time; and I ran over to the starboard side to see the vessel; looked down into the vessel from the deck.

Q. Just describe how the vessels lay—the schooner and steamer—when you looked down from the deck.

A. The steamer was pushing the schooner along backwards; the stern of the schooner was forward; and I should say that more than

131 half of the schooner was along side of the vessel, because her

bows were about opposite where I was, and that was about the foremast.

Q. And were they close to the side of the steamer?

A. They were in immediate contact.

Q. What was the motion of the steamer through the water at the time of this collision?

A. Very slow.

Q. Did you hear her engines?

A. I did not.

Q. Did you hear orders given from the bridge before the collision?

A. I did; but what they were I could not say, as my mind was so occupied with the collision at the time.

Q. You heard orders?

A. I heard orders.

Q. How long was it before the steamer backed out from the schooner?

A. The steamer did not stop altogether.

Q. Do you mean to ask if the steamer backed?

Q. In the first place, I want to ask you how long the schooner was held up by the steamer, if she was held up by her?

132 A. She was held up by the contact of the rigging and the vessel as she was going slowly along; the vessel did not stop at any time entirely, but her speed was slackened; she went along slowly, until finally—it seemed a long time I stood there—she went down, carrying some of our rigging; under the excitement I could not tell the exact time.

Q. About how far was she carried along?

A. I could not give a definate answer of the distance.

Cross-examined by Mr. Owen:

Q. From the time you left the dock, were you standing on the after deck?

A. I was.

Q. When did you first observe the schooner?

A. I first observed her within a short distance of the vessel.

Q. Of your vessel?

A. Of our vessel.

Q. Then you supposed there would be a collision, and ran immediately forward?

A. I did.

Q. And how far did you get before the collision occurred?

133 A. I had got near the foremast, as near as I can recollect; just beyond the bridge.

Q. Did the collision occur just about the moment you got there, or had you stopped?

A. It occurred just as I got there.

Q. When did you hear the orders from the bridge; before you left the deck aft, or while you were running forward, or when you got forward?

A. Well, there were orders from the bridge all the time; well, not exactly all the time, but in this moment of excitement the ship was aroused, and there were orders given as I ran along.

Q. Did you hear any reports from the forward part of the steamer?

A. No, sir; as I was in the stern of the vessel.

Q. Did you observe the brig on your port hand at that time?

A. She was on the port side, the left side the schooner.

Q. When you saw the schooner, how near were you to the brig at anchor?

134 A. The brig at anchor, I did not notice; I did not notice the vessels near the schooner.

Re-direct ex. by Mr. Benedict:

Q. How long did you stay forward?

A. I stayed until we were ordered back; we were ordered back because the mast was liable to fall. I stood looking over the side of the vessel into the schooner, and her mast began to fall, and the officers on the forepart of the deck ordered the passengers back, as the mast was liable to fall on the deck.

Q. Did you hear anything said at the time with reference to the cause of the collision among the people there?

(Objected to. Obj'n sustained.)

Re-cross:

Q. Were there passengers round on the forward deck with the crew at this time?

A. There were very few; most of them were at the stern of the vessel.

Q. But there were some?

A. There were a few forward.

Q. Did you see the first officer and mate?

135 A. The fourth officer, the youngest, he stood there, and his attention was principally occupied in keeping the passengers back.

Q. Was this the first homeward trip of the City of Paris?

A. As I understood it.

By the court:

Q. You stood by the wheel.

A. Yes, sir.

Q. What started you first?

A. A mere accident. I was looking forward, and saw the vessel coming down on our bow very rapidly.

Q. When your eye caught her, what did you look across on your vessel?

A. I looked about across the smoke stack; she was directly on the port. I was standing on the starboard side of the vessel, and looked across the smoke stack, and then ran over to the port side, and just as I got to the forward part of the vessel she struck and swung round on the starboard side, and then I went on that side of the vessel.

Q. Did you hear any change of the wheel, or notice that the

136 men at the wheel hove the wheel when you started?

A. No, I did not; I was not near enough to have heard if they had done it.

Q. You did not notice them rolling the wheel rapidly at that time?

A. Not that I recollect.

Further re-direct:

Q. You were looking forward?

A. Yes, sir.

Q. That wheel-house where the men were standing is considerably below the hurricane deck.

A. Yes, sir.

Q. Their heads are about on a level with the deck?

A. Yes, sir.

Testimony closed.

137 At a stated term of the district court of the United States of America for the eastern district of New York, held at the United States court-rooms in the city of Brooklyn, on Friday, the 31st day of May, in the year of our Lord one thousand eight hundred and sixty-seven.

Present, the Honorable Charles L. Benedict, district judge.

HENRY P. SIMMONS *et al.*
against
THE STEAMER "CITY OF PARIS," her tackle, &c.

This cause having been heard on the pleadings and proofs, and submitted on the arguments of the respective advocates, now, on motion of Owen, Gray & Owen, esq's, proctors for libellants, it is ordered, adjudged, and decreed by the court that the libellants recover in this action against the said steamer, her tackle, &c., the damages by them sustained by reason of the collision mentioned in the pleadings herein, and that the said vessel be condemned to pay the same. And, on like motion, further ordered that it be referred to one of the commissioners of this court to ascertain and compute the amount of said damages, and report thereon to the court with all convenient speed.

CHARLES L. BENEDICT.

138 (Indorsed:) Vol. , No. . U. S. district court for the eastern district of New York. Henry P. Simmons & others vs. the steamer "City of Paris," her tackle, &c. Final decree. Order of reference. Owen, Gray and Owen, proctor for libellants. Filed and entered this 31st day of May, 1867.

139 U. S. district court.

HENRY P. SIMMONS & *als.*
vs.
THE CITY OF PARIS, &c.

We hereby consent that Owen, Nash & Gray, esqr., substituted in our place as proctors for the libellants in the above-entitled action, and that an order to that effect be entered.

Dated New York, September 15th, 1867.

OWEN, GRAY & OWEN,
Proctors for Libellants.

At a stated term of the district court of the United States, held in and for the eastern district of New York, at the court-rooms in the city of Brooklyn, on the day of , 1867:

Present, Hon. Charles L. Benedict, justice.

HENRY P. SIMMONS, JOHN RUSSEL, GEORGE Shepherd, Hezekiah W. Godfrey, John H. Allen, and Robert C. Grace,
vs.
THE "CITY OF PARIS," HER ENGINES, &c.

140 On reading and filing the consent of Owen, Gray & Owen, esqrs., proctors for the libellants in the above-entitled action.

and on motion of Owen, Nash & Gray, it is ordered that Owen, Nash and Gray be, and they hereby are, substituted as proctors for the libellants in the above-entitled action in the place of Owen, Gray and Owen.

By the court:

SAMUEL T. JONES, *Clerk.*

(Endorsed:) E. D. U. S. district court. Henry P. Simmons & als. vs. the "City of Paris," &c. Consent & order for substitution of attorneys. Owen, Nash & Gray, proctors for libellants. Filed October 2d, 1867.

141 U. S. district court for the eastern district of New York.

HENRY P. SIMMONS
vs.
THE STEAMER "CITY OF PARIS," &c., &c.

In pursuance of a decretal order heretofore entered in the above-entitled, whereby, among other things, it was referred to a United States commissioner to ascertain and compute the amount due to the libellants for damages sustained for the reason and causes mentioned in the pleadings herein, and to report thereon with all convenient speed, I, Charles W. Newton, United States commissioner for the eastern district of New York, to whom the said matter was referred, do report that I have been attended by the proctors for the respective parties, & have taken and considered the proofs offered, and I do find that there is due the libellants for damages, on account of the matters and things alleged in the pleadings, as follows:

For value of schooner	$5,000 00
For value of freight	472 75
For value of cargo	944 67
142 For clothing of Robert C. Grace	601 40
For clothing of Enock Blackman	217 00
For clothing of Charles Stewart	105 00
For clothing of John Clayton	224 50
	7,565 32
For interest on 7,565 32, from April 14th, 1866, to date	909 10

Whole amount due libellants to date of this, my report, eight thousand four hundred and seventy-four dollars and forty-two cents.

All of which is respectfully submitted.

Dated Brooklyn, Jan'y 3d, 1868.

CHARLES W. NEWTON,
U. S. Commissioner.

143 U. S. district court, E. D. of New York.

HENRY P. SIMMONS *& al.*
vs.
THE STEAMSHIP "CITY OF PARIS," her tackle, &c.

The claimants except to the commissioner's report, under the decretal order of this court, as follows:

First. For that the said commissioners hath allowed the libellants their gross freight, in place of deducting therefrom the expenses that

would have been incurred in case the voyage on which the collision took place had been successfully performed, & which expenses were shown in the proofs before him to be one hundred dollars.

Second. For that the said commissioner has allowed the value of the coal on board of the vessel at the time of said collision.

Third. For that the said commissioner hath erred in allowing interest on the gross amount of damage set forth in the report from the date of the collision.

New York, February 1st, 1868.

J. W. GERARD, JR.,
Proc. for Claimants

T. C. T. BUCKLEY, *Advocate.*

144 Endorsed: U. S. district court, E. D. of New York. Henry P. Simmons & al. vs. the S. S. "City of Paris," &c. Exceptions to commissioner's report. J. W. Gerard, junior, pro. for claimants. Submitted. Owen, Nash & Gray, libellants' proctors. J. W. Gerard, jr., proc. for claimants.

Filed Feb'y 5th, 1868.

145 At a stated term of the district court of the United States of America for the eastern district of New York, held at the United States court-rooms in the city of Brooklyn, on the 26th day of February, 1868:

Present, the Honorable Charles L. Benedict, district judge.

HENRY P. SIMMONS & *als.*
vs.
THE STEAMER "CITY OF PARIS," her engines, tackle, &c.

This cause coming on to be heard upon the report of Charles W. Newton, esquire, U. S. commissioner, to whom, by a decretal order made and entered herein, it was referred to ascertain and report to this court the amount of damages sustained by the collision in the pleadings mentioned, and upon the exceptions to the said report filed on the part of the claimants, after hearing E. H. Owen, advocate for the libellants, & J. W. Gerard, jr., esquire, advocate for the claimants, and after due deliberation thereon, it is ordered, adjudged, and decreed,

146 that the exceptions to the said report be disallowed, and that the report of the said commissioner be, and the same is, in all things confirmed.

And it is further ordered, adjudged, and decreed that the libellants do recover against the claimants and stipulators herein the sum of eight thousand four hundred and seventy-four dollars and fifty-two cents, with interest thereon from the third day of January last, the date of the said report, to the date of this decree, with their costs, taxed at three hundred and seventy $\frac{48}{100}$ dollars, making together, for principal, interest, and costs, the sum of eighty-nine hundred and thirty-two $\frac{16}{100}$ dollars. And it is further ordered, adjudged, and decreed that out of the proceeds of the stipulation for the value of the steamer "City of Paris," filed herein, which shall be paid into the registry of this court, the clerk do pay to the libellants or their proctors, for themselves and the persons who have intervened as co-libellants herein, the last aforesaid sum, with interest from the date of the decree to the time of such payment, and that, unless an appeal be taken from this decree within the time limited

& prescribed by the rules & practice of this court, the clerk pay
147 over such proceeds in satisfaction of this decree.

CHARLES L. BENEDICT.

Endorsed: U. S. district court, eastern district of New York. Henry P. Simmons & als. vs. the steamer "City of Paris," her engines, &c. Final decree. Owen, Nash & Gray, proct's for libellants.

Filed, entered February 28th, 1868.

S. T. JONES, *Clerk.*

148 District court of the United States for the eastern district of New York.

HENRY P. SIMMONS & OTHERS, libellants,
ag'st
THE STEAMSHIP "CITY OF PARIS," HER tackle, engines, &c., the Liverpool, New York, & Philadelphia S. S. Co., claimants.

GENTLEMEN: The Liverpool, New York, & Philadelphia Steamship Company, claimants in the above-entitled action, intend to appeal from the final decree of this court in this cause.

New York, Febuary, 26th, 1868.

Yours, &c.,

J. W. GERARD, JR.,
Proctor for Claimants.

To OWEN, NASH & GRAY, Esq'r,
Proctors for Libellants.
SAMUEL T. JONES, Esq.,
Clerk of U. S. District Court.

Endorsed: U. S. district court, E. D. of New York. Henry P. Simmons ag'st the steamship "City of Paris, &c. Notice of appeal. James W. Gerard, jr., proc. for claimants. Filed Feb'y 27th, 1868.

149 Circuit court of the United States for the eastern district of New York.—In admiralty.

THE LIVERPOOL, NEW YORK, & PHILADELPHIA Steamship Company, claimants of the steamer "City of Paris," her tackle, apparel, &c., appellants,
vs.
HENRY P. SIMMONS, JOHN RUSSEL, GEORGE Shepherd, Hezekiah W. Godfrey, John H. Allen, Robert C. Grace, Enock Blackmore, John K. Clayton, & Charles Stewart, libellants.

To the honorable the circuit court of the United States for the eastern district of New York in the second circuit court:

The appeal of the above-named appellants respectfully showeth: That on or about the seventeenth day of May, eighteen hundred & sixty-six, the above-named libellants, Henry P. Simmons, John Russel, George Shepherd, Hezekial W. Godfreey, John H. Allen, and Robert C. Grace, exhibited their libel in the district court of the United States for the eastern district of New York against the appelants' said steamer "City of Paris," her tackle, engines, &c., each claiming over fifty dollars, pray-

ing, among other things, for the reasons set forth in said libel, that
150 said court would pronounce for the claim in said libel set forth and condemn the steamer and all parties intervening for their interest therein with costs.

That the Liverpool, New York, and Philadelphia Steamship Company having entered their appearance and claim for the said steamer, and having waived service of process, they did on the thirtieth day of June, 1866, file their answer to said libel in said district court praying that the said libel be dismissed with their costs in that behalf, as by reference to said libel and said answers may more fully appear. That the said district court did on the 30th day of May, 1866, pursuant to the prayer of the petition therefore presented to said court, order and direct that Robert C. Grace, Enock Blackmore, John K. Clayton, and Charles Steward be admitted as co-libellants in this suit, and to share the benefit of the stipulation here in proportion as they may prove their claim. That the said cause came on to be heard before the Honorable Charles L. Benedict, judge of the said district court, on or about the 23d day of April, eighteen hundred and sixty-seven, upon the deposition and proofs taken in said cause, and the testimony and proofs adduced by the respective parties; and the said judge having advised thereon, on the 1st day of June, 1867, made a decree or sentence in said cause,
151 whereby it was, among other things, sentenced and decreed that the libellants recover their damages, as by reference to said decree may more fully appear, & directing a reference under said decree to Charles W. Newton, esq., United States commissioner for the eastern district of New York, to ascertain the amount of said damages; which reference was had, and commissioner reported that there was due the libellants for the value of the schooner, $5,000; for the value of the freight, $472 75; for the value of the cargo, $944 67; for clothing of Robert C. Grace, $601 40; for clothing of Enock Blackmore, $217 00; for clothing of Charles Steward, $105 00; and for clothing of John Clayton, $224 50; and for interest on $7,565 32, from April 14, 1866, to January 3d, 1868, $909 10. That these claimants did, on the fourth day of Febuary, 1868, duly file with the said district court their exceptions to the said commissioner's report, which said exceptions were overruled and disallowed by the said judge, and the said report of said commissioner was on the 26th day of Febuary, 1868, confirmed by the final decree of said court. And these appellants are advised & insist that the said decrees are erroneous, inasmuch as the said libellants were not entitled to any damages in the premises or to the amount of damages finally recovered herein. And these appellants, for these and other
152 reasons, appeal from the whole of the said decree in favor of said Simmons, Russel, Shepherd, Godfrey, Allen, Grace, Blackmore, Clayton, and Seward to the next circuit court to be held in the said eastern district of New York, and on the said appeal they intend to have the said cause heard anew in the circuit court on the pleadings & proofs in the district court, and new and further proofs to be introduced in the said circuit court; & they pray that the record and proceedings may be returned to the said circuit court, and that said decree and every part thereof may be recovered with costs, or such other decrees thereupon made as to the circuit court shall seem just, & that the said appellees be condemned to pay to these appellents their costs & damages in the premises.

J. W. GERARD, JR.,
Proctor for Claimants.

T. C. T. BUCKLEY, *Advocate.*

Endorsed: U. S. circuit court, eastern district of New York. Henry P. Simmons & al. ag'st the "steamer City of Paris." Petition of appeal. J. W. Gerard, junior, proctor for claimants. Filed March 12th, 1868.

153 Circuit court of the United States of America for the eastern district of New York in the second circuit.

HENRY P. SIMMONS & OTHERS, appellees,
vs.
THE STEAMSHIP "CITY OF PARIS," HER tackle, &c., & the Liverpool, New York, and Philadelphia Steamship Company, appellants.
} Bond for costs.

Know all men by these presents, that we, John J. Dale, Malcolm G. Haughton, and George Jeffers, are held and firmly bound unto the above-named Henry P. Simmons & other appellees, in the sum of eighteen thousand dollars to be paid to the said appellees; for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the ninth day of March, in the year of our Lord one thousand eight hundred and sixty-eight.

Whereas the above-named appellants ha prosecuted an appeal to the circuit court of the United States for the eastern district of New York, to reverse the decree rendered in the above-entitled suit by the judge of the district court of the United States for the eastern district of New York:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute such appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

Liverpool, New York, and Philadelphia Steamship Company,
By JOHN G. DALE, *Agent.*
GEO. JEFFERS.
M. G. HAUGHTON.

Sealed and delivered and taken and acknowledged this 9th day of March, 1868, before me.

154 UNITED STATES OF AMERICA,
Eastern District of New York, ss:

Malcolm G. Haughton and George Jeffers, each severally being duly sworn, doth depose and say, each for himself and not one for the other, that he is worth the sum of eighteenth thousand dollars over and above his just debts and liabilities.

GEO. JEFFERS.
M. G. HAUGHTON.

Sworn to this 9th day of March, A. D. 1868, before me.
CHARLES W. NEWTON,
U. S. Commissioner.

(Indorsed:) Vol. Page . U. S. circuit court. Henry P. Simmons vs. the steamer "City of Paris." Bond for costs on appeal. proctor. Filed this 13th day of March, 1868.

Approved March 12th, 1868.

OWEN, NASH & GRAY,
Proct's for Appellees.

155 PIER NO. 17. PORT RICHMOND,
E. PHILADELPHIA, 186 .

Received on account of freight, dollars cents.

Red ash coal.		White ash coal.	
Tons	lump.	Tons	lump.
"	broken.	161 "	S. boat.
"	egg.	"	broken.
"	stove.	"	egg.
"	chesnut	"	stove.
"	pea and dust.	"	chestnut.
Total.		Total.	

WM. HUNTER, JR., & CO.,
Minners & Shippers of Red and White Ash Anthracite Coal.

Officers:
No. 205½ Walnut st, Phil.
" 73 B'way, New York.
" 1 Rector st.
" 21 & 23 Doane street, Boston.

Ex. A.

Shipped by Wm. Hunter, jr., & Co., in good order on board the schooner called the Percy Heilner, of Philadelphia, whereof Grace is master for this present voyage, and now lying in the river Delaware, port of Philadelphia, and bound for Pawtucket, R. I., one hundred & sixty-one (161) tons, of 2240 lbs., of Locust mountain steamer coal, (as per margin,) which I promise to deliver at the aforesaid port of Pawtucket in like good order, (the dangers of the seas only excepted,) unto C. B. Farnsworth, esq'r, (treasurer Dannell Man'f. Co.,) or his assigns, he or they paying freight for the same at the rate of two $\frac{75}{100}$ dolls, & towing up and down (2 75) per ton.

In witness thereof, the master or purser of said vessel hath affirmed to 4 bills of lading, all of this tenor and date; one of which being accomplished, to others to stand void.

Dated at Philadelphia this 30th day of March, 1866.

Draws 872 feet water, and was built at in 18 .

161 tons in the hold.
0 " on deck.

ROBERT GRACE.

156 PHILADELPHIA, *March* 30, 1866.

Mr. C. B. Farnsworth, treas., Pawtucket, R. I., minners and shippers of coal, 205½ Walnut street.

D. B., Folic 180.

161 tons white ash anthranite steamer coal, 5 75	925 75
Gov't tax, .06	9 66
Insurance	9 26
	944 67

Duplicate.
Per schooner Percy Heilner.
Copy of original entry.

WM. HUNTER, JR., &C.
W. UNDERWOOD.

Endorsed: Ehibit C. Referee Nov. 1st, 1867.

C. W. NEWTON.

157 U. S. district court, eastern dist of N. Y.

HENRY P. SIMMONS *et al.* }
vs. } Reference.
ST'R CITY OF PARIS. }

JUNE 20*th*, 1867.

Mr. Owen appears as counsel for libellant, & Mr. Buckley for respondents.

Mr. Owen produces and reads in evidence so much of depositions filed in this cause as relates to the damages.

Depositions marked Exhibit No. 1, 2, 3, respectively.

Hearing adj. to June 25th, 3½ o'c. p. m.
" " " " 30th, 3 " "

Henry P. Simmons sworn for libellants:

I am one of libellants in this action, and am of the schooner Perry Heilener. Hesakiah W. Godfrey, John Russel, George Sheppard, & Robert C. Grace, John H. Allen, & myself were the owners of the schooner at time of collision. The sch'r was built fourteen years ago, & I have been one of the owners ever since I had her built. I saw her a few weeks before the collision; her condition was good when
158 I last saw her; she was well found; her sails were good; her mainsail was only about six weeks old. The sch'r was in good condition. Six years ago this spring she was all rebuilt. I have followed the building, sailing, coasting, & managing vessels for thirty-two years. I own interests in twenty-seven or eight vessels at the present time. I never bought but one vessel that I know of; had them all built. This sch'r was a centre-board sch'r. She was built for the purpose of running to Newburn & for the general coasting business, & had been engaged in that all the time. I am acquainted with the value of vessel of her class.

Q. What was the fair value of this sch'r at the time you saw her last; say at the time of the collision. I mean the value of her with all her rigging & chains, &c.

A. Five thousand dollars. I say five thousand dollars, because we were offered four thousand five hundred dollars for her last sping, just before the collision, by Heny Chase, which we refused, because we considered her worth five thousand dollars, which we offered to sell her for. I considered her worth five thousand dollars without any reference to any offer.

Cross-examined:

159 She carried from 160 to 165 tons. She was a fore-&-aft sch'r. I don't know when she was overhauled previous to the collision. I know she was rebuilt six years ago, because I paid the bills. I think I paid some twenty-four hundred dollars for rebuilding. The work done was taking out her ceiling & taking out any rotten timbers, reposting & generally overhauling her. It was a general rebuilding of the vessel; this was done six years ago. She had been carrying assorted cargoes—some coal, hay—for the government. I think it was only her first trip in the coal trade that season; I won't be positive; I don't keep a run of every trip. I can't say what she would have fetched here in New York in April, 1866, but I knew what she was worth to me. I don't know what her market value at New York would have been in the spring of 1866. I deal very little in New York. She had a coal freight on board at the time of the collision. I think she got $2.75 ton freight. I don't think the expenses of the voyage would be more than $100—that in the round trip from Philadelphia to Pautucket.

Re-direct resumed:

Not more than $30 of the expenses had been incurred up to the
160 time of the collision. The market value of the sch'r in Philadelphia was $5,000. I knew the market value of vessels in Philadelphia.

Re-cross:

I know of sales of vessels of this description in the sping of 1866. The Lizzie Taylor was sold that spring for some $6,000. I have been informed so. She was about the same age & tonage, & belong to the same men. I did not own any in her. I have in my mind a number of vessels of her description which was sold that spring. I don't remember their names at present.

OCT. 4*th*, 1867.

Libellants' counsel offer bill of lading marked Exhibit "A."

Bill of lading read in evidence.

Bill of amount paid for coal included in bill of lading offered in evidence, marked Exhibit "B."

Counsel for respondent objects to any allowance being made libellant for the value of the coal, on the following grounds:

1st. The coal did not belong to libellants, and they have not.

2nd. There are no allegations in libel sufficient to allow a [a]
161 recovery by the libellants for the benefit of the owners.

3rd. That the coal was being carried, as appears by bill of lading, by the terms of which the owners of vessel were not responsible for the loss by means of collision.

Adj. to Oct. 11th, at 3 o'c.

NOV. 15*th*, 1867.

Parties present invoice of the coal on board of the sch'r P. Heilener offered in evidence by libellants' counsel.

Claimants' counsel admits that the value of the coal mentioned in said invoice is, as mentioned therein, to wit, $944.67. Invoice marked Exhibit C.

It is admitted that the collision took place on the 14th April, 1867 [6].

Exm'n adj. to Nov. 23rd, 1867, at 2 o'c.

162 U. S. district court, E. D.

HENRY P. SIMMONS *& al.*
vs.
THE STEAMER "CITY OF PARIS," &c. } Consent to examine witness de bene esse.

It is hereby consented that Charles Stewart be examined de bene esse in this cause, as a witness on the part of the libellant, at the office of Owen, Gray & Owen, No. 72 Wall st., on Monday, the twenty-fifth day of March, at two o'clock in the afternoon of that day; that the deposition of said witness, when sworn to before a commissioner of deeds or a notary public, may be read in evidence by either party on the trial, reference, and other proceedings in this cause, with the like effect, subject to all exceptions to the compentcy and admissibility of the testimony, as if the same had been taken before a judge of the court under an order issued for that purpose; that the same need not be filed unless required by ten days' written notice; but may remain in the possession of the

libellants, a copy thereof being furnished to the claimants, thus exam'd who adj. if Mr. Burkley is engaged in court.

Dated New York, March 23rd, 1867.

PLATT, GERARD & BUCKLEY.

(Indorsed:) U. S. district court. Simmons vs. the City of Paris. Consent to examine Charles Stewart. Owen, Gray & Owen, lib'ts' proctors.

163 U. S. dist. court, E. D.

HENRY P. SIMMONS &c.
vs.
THE STEAMER CITY OF PARIS, her engines, &c.

Deposition of Charles Stewart, a witness produced & examined on the part of the libellants in the above cause, under the stipulation hereto annexed, being duly sworn, deposes and says:

I live in Atlantic county, New Jersey; I am a sea-faring man, and have followed the sea about six years; I was on board the schooner Percy Heilner at the time of the collision between her and the steamer City of Paris, which occurred in April, 1866, here in the port of New York; I was a seaman on board; the schooner was bound to Providence, and after entering into the East river she put about and proceeded towards the New Jersey shore to anchor & wait for a favorable tide. When she was about abreast of Governor's island, she was hauled up and put on her course across towards New Jersey. In going across the schooner was steered between two ships which lay at anchor, heading to the eastward. My attention was first called to the steamer by hearing
164 our captain say that the steamer would [would] run into us. I was then standing forward and looked up and saw the steamer coming down towards our starboard bow. She was then, I should think, about 150 yards off. We had just passed the stern of the ship on our starboard side, when I first saw the steamer. I think the schooner was going about half-way between the two ships which were lying at anchor; I should think the schooner went within about 200 yards of the ship anchored on our starboard hand. The steamer appeared to be acoming at full speed. She struck us very soon after I first saw her. It was not more than a half a minute from the time I first saw her before she struck us. She struck the schooner right forward of the main rigging on the starboard side and sunk her; I got aboard by a line from the steamer; I did not notice any change in the course of the schooner; I heard no orders to change her course; I don't think the schooner changed her course after she hauled up at Governor's island and stood over, until the collision. When we saw that the steamer was likely to run into us we were very much frightened; I lost by the collision some clothing which I had aboard; I have made a list of the articles which I lost, and it is hereto annexed as part of this deposition; I have therein
165 stated the value of the articles lost as near as I am able to do. The whole were worth to me, according to my estimate, the sum of one hundred & five dollars.

Cross-examined:

I had been on the schooner about two months before the collision. I was a seaman. When we hauled up to stand over to Jersey City, I was about amidships; I did not remain there till the collision occurred; just before it I went forward.

There were with me amidships the mate, and Blackman, who was a man before the mast; we were amidships by the mainmast, near where the galley is; I was forward when I looked up and saw the steamer coming down on our starboard bow; could not tell what called me forward; I went from amidships to the windlass. I think Enoch Blackman went about half-way with me. The mate staid amidships; don't remember whether I was amidships when we commenced going through the vessels that were at anchor of which I have spoken; don't remember where I was at that moment. We had been talking, Enoch & I, together, but not exactly before my attention was called by the steamer.

166 While we were going across I was helping set up the main peals; had we other duty; the mate & Enoch helped me with that. Heard no bail from the mate aboard the steamer nor from Enoch. It was the captain's voice that called my attention to her. There was no one forward but the mate, Enoch, and myself, & I think our vessel was steering about west as we were going across. Did not alter our course that I know of, as we were about going through the vessels that were at anchor; my attention was not particularly directed to the course of our vessel before the collision. Could not tell what my attention had been occupied with prior to the collision, prior to the time I became frightened; I had done nothing else that I can remember, but help set up the main peak. Besides helping me set up the main peak, Enoch & the mate had been doing nothing that I remember; I did not notice whether or not there was any back-water from the steamer as she came up; did not notice whether or not she slacked her speed; did not notice anything about that.

CHARLES STEWART.

Sworn to before me this 25th March, 1867.

CHARLES D. INGERSOLL,
Notary Public N. Y. County.

167 *List of articles which were on board the Percy Heilner at the time of the collision with the "City of Paris," and which were thereby lost, belonging to Charles Stewart:*

3 pair of pants & 3 vests; one pair but little worn, and the others not badly worn, and worth together about....	$35
2 coats; one pretty well worn, & the other nearly new and which cost about $18; the two together were worth to me..	$25
2 pair of boots & 2 pair of shoes; one pair of boots pretty well worn, and both pair of shoes pretty well worn, but all together were worth, I think, about.....	$14
4 flannel shirts and 2 undershirts, and 2 pair of drawers, and together were worth about.....	$12
2 pair of socks and 2 pair of mittens, which were worth about, I think.....	$2
2 hats, worth together about.....	$4
1 trunk, new, for which paid.....	$5
1 bed & bedding.....	$5
Books, paper, &c.....	$3
In all.....	$105

168 (Indorsed:) U. S. dist. court, E. D. Henry P. Simmons & al. vs. the steamer "City of Paris," &c. Consent & deposition of Charles Stewart. Owen, Gray & Owen, lib'ts' proct's. Exhibit No. 2. June 20th, 1867. C. W. W.

Due service of copy admitted, March 27th, 1867.
PLATT, GERARD & BUCKLEY,
Proctors for Cl'm'ts.

June 20th in evidence.

169 At a stated term of the circuit court of the United States of America for the eastern district of New York in the second circuit, held at the United States court-rooms in the city of Brooklyn, on the day of , A. D. 1868.

Present, the Hon. Samuel Nelson, associate justice of the Supreme Court of the United States.

HENRY P. SIMMONS *et als.*
vs.
THE STEAMER "CITY OF PARIS," her engines, tackle, &c.

This cause having been brought to a hearing upon the appeal taken by the claimants from the decree of the district court entered herein, and dated the twenty-eight day of February, 1868; after hearing E. H. Owen, esq'r, of counsel for the libellants and appellees, and T. C. T. Buckley, esq., of counsel for the claimants and appellants, and due deliberation having been thereon had, it is now ordered, adjudged, and decreed that the steamer "City of Paris" was the sole culpable
170 cause of the collision, and is liable for all the damages occasioned thereby, and that the decree of the district court in this respect be, and the same is hereby, affirmed.

And it appearing from the record that an error occurred in estimating the damages, the commissioner having allowed gross freight instead of net, it is further ordered, adjudged, and decreed that this sum of one hundred dollars be deducted from the amount stated in the decree of the district court, and that the said decree be in all other respects affirmed.

And it is further ordered, adjudged, and decreed that the libellants and appellees do recover against the said "City of Paris," her engines, &c., and against George Jeffers and Macolm G. Houghton, the sureties on appeal, the balance; that is to say, the sum of eight thousand eight hundred and thirty-two dollars and sixteen cents, being their damages and costs as stated in the decree of the said district court; together with the interest thereon from the twenty-sixth day of February, 1868, to the twenty-first day of October, instant, (the day of entering the final decree herein,) amounting to four hundred and three dollars and
171 thirty-nine cents, and costs of this appeal, taxed at two hundred and forty-three dollars and sixty-seven cents; and which said several sums together amount to the sum of nine thousand four hundred and seventy-nine dollars and twenty-two cents; and that unless the last-mentioned sum be paid within the time allowed by law and the rules and practice of this court, that a summary judgment be entered therefor in this court against the Liverpool, New York, & Philadelphia Steamship Company, claimants, and George Jeffers and Malcolm G. Haughton, sureties on appeal, and that the libellants have execution to collect the same according to law and the course and practice of this court.

SAMUEL NELSON.

172 (Indorsed:) U. S. circuit court, eastern district. Henry P. Simmons et als. vs. the steamer "City of Paris," her engines, &c. Decree. Owen, Nash & Gray, proc's for lib'l'ts. Filed Oct. 21st, 1868.

173 Circuit court of the United States for the eastern district of New York.

THE LIVERPOOL, NEW YORK, AND PHILADELPHIA Steamship Company, claimants of the steamship "City of Paris," her tackle, apparel, &c., appellants,
vs.
HENRY P. SIMMONS, JOHN RUSSEL, GEORGE Shepherd, Hesekiah W. Godfrey, John H. Allen, Robert C. Grace, Enoch Blackmore, John K. Clayton, and Charles Steward, libellants.

To the honorable the Supreme Court of the United States:

The appeal of the Liverpool, New York, and Philadelphia Steamship Company, the above-named claimants and appellants, respectfully showeth:

That on or about the seventeenth day of May, eighteen hundred and sixty-six, the above-named libellants, Henry P. Simmons, John Russel, George Shepherd, Hesekiah W. Godfrey, John H. Allen, and Robert C. Grace, filed their libel in the district court of the United States for the eastern district of New York against the appellants' said steam-
174 ship "City of Paris," her tackle, engines, &c., in a cause civil and maratime, for the recovery of damages alleged to have been sustained by them by a collision between the schooner "Percy Heilner" and the said steamship "City of Paris," on the Hudson or North river, in the State of New York.

That the Liverpool, New York, and Philadelphia Steamship Company having entered their appearance and claim for said steamship and entering into stipulations, and having waived service of process, they did, on the thirtieth day of June, eighteen hundred and sixty-six, file their answer to said libel in said district court.

That the said district court, on the thirtieth day May, eighteen hundred and sixty-six, pursuant to the prayer of a petition therefor, order and direct that Robert C. Grace, Enoch Blackmore, John K. Clayton, and Charles Steward be admitted as co-libellants in this suit, and to share the benefit of the stipulation herein in proportion as they should prove their claim.

That such proceedings were had in said cause that on the twenty-sixth day of February, eighteen hundred and sixty-eight, a final decree was made and pronounced therein by the said district court,
175 wherein it was in substance adjudged that the said libellants recover against the said steamship "City of Paris," her tackle, &c., the sum of eight thousand nine hundred and thirty-two dollars sixteen cents, including costs.

And that, after such final decree, your petitioners duly appealed therefrom to the circuit court of the United States for the eastern district of New York, and the said cause was removed thereby into the said circuit court and there tried anew, and such proceedings were had in the said circuit court that afterwards, and on the twenty-first day of October, eighteen hundred and sixty-eight, the said circuit court made a final decree in the said cause, whereby it was decreed that the said decree of the said district court be in all things affirmed, with costs, with a deduction of one hundred dollars, error in estimating damage, and that the said appellees have execution, and that the stipulators cause their

stipulations to be fulfilled. Which said decree of the said circuit court is, as these appellants are advised, erroneous and ought to be reversed.

176 Wherefore these appellants appeal from the whole of said decree of said circuit court to the Supreme Court of the United States, and respectfully pray that the said decree of the circuit court and the libel, answer, pleadings, depositions, evidence, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the circuit court and every part thereof may be reversed, and a decree made dismissing said libel with costs, or such other decree made as to the said Supreme Court shall seem just.

Dated New York, October 31, 1868.

J. W. GERARD, JR.,
Proctor for Cl'ts & Appell'ts.
THOS. C. T. BUCKLEY,
Advocate.

177 (Indorsed:) U. S. circuit court, E. D. of New York. Henry P. Simmons & al., libellants & appellees, agst. the steamship "City of Paris," her tackle, &c. The Liverpool, New York, & Philadelphia Steamship Company, claimants & appellants. Petition of appeal to the Supreme Court of the U. S. James W. Gerard, junior, proctor for cl'm'ts & appellants. Filed Nov. 5th, 1868.

178 Circuit court of the United States of America for the eastern district of New York in the second circuit.

THE STEAMER "CITY OF PARIS," HER tackle, &c., the Liverpool, New York, & Philadelphia Steamship Co., claimants and appellants,
vs.
HENRY P. SIMMONS, JOHN RUSSEL, GEORGE Shepherd, Hesekiah W. Godfrey, John H. Allen, and Robert C. Grace, libellants and appellees.
} Bond for costs.

Know all men by these presents, that we, John G. Dale, James Stuart, and Joseph Stuart, all residents of the City of New York, are held and firmly bound unto the above-named libellants and appellees in the sum of seventeen thousand dollars, to be paid to the said appellees; for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the sixth day of November, in the year of our Lord one thousand eight hundred and sixty-eight.

Whereas the above named appellants have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled suit by the judge of the circuit court of the United States for the eastern district of New York: Now, therefore, the condition of this obligation is such, that if the above named appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

JOHN G. DALE.
JAMES STUART.
JOSEPH STUART.

Sealed and delivered, and taken and acknowledged, this sixth day of November, 1868, before me.

EDWARD L. OWEN,
U. S. Commissioner for the Southern Dist. of New York.

179 UNITED STATES OF AMERICA,
Southern District of New York, ss:

James Stuart and Joseph Stuart being duly sworn, severally depose and say, and each for himself says, that he is a resident and free-holder in the city and State of New York, and that he is worth the sum of thirty-four thousand dollars over and above his just debts and liabilities.

JAMES STUART.
JOHN STUART.

Sworn to this sixth day of November, A.D. 1868, before me.

EDWARD L. OWEN,
U. S. Commissioner for the Southern District of New York.

(Indorsed:) Vol. Page . U. S. circuit court. The steamer "City of Paris," the Liverpool, New York, & Philadelphia S. S. Co., claimants and appellants, vs. Henry P. Simmons & al., libellants and appellees. Bond for costs on appeal to Supreme Court U. S. J. W. Gerard, junior, claimants and app'l'ts' proctor.

Filed this 11th day of November, 1868.

We approve of within bond as to form and sufficiency of sureties.
New York, Nov. 6th, 1868.

OWEN, NASH & GRAY,
Proc. for Appellees.

Filed Nov. 11th, 1868.

I approve of the within bond as to form and the sufficiency of the sureties.
November. 9th, 1868.

CHAS. L. BENEDICT.

180 Circuit court of the United States for the eastern district of New York.

THE LIVERPOOL, NEW YORK, AND PHILADELPHIA Steamship Company, claimants of the steamship "City of Paris," her tackle, apparel, &c., appellants,
vs.
HENRY P. SIMMONS, JOHN RUSSEL, GEORGE Shepherd, Hesekiah W. Godfrey, John H. Allen, Robert C. Grace, Enoch Blackmore, John K. Clayton, and Charles Steward, libellants.

By the Honorable Charles L. Benedict, one of the judges of the circuit court of the United States for the eastern district of New York in the second circuit, to Henry P. Simmons, John Russel, George Shepherd, Hesekiah W. Godfrey, John H. Allen, Robert C. Grace, Enoch Blackmore, John K. Clayton, and Charles Steward:

Whereas the Liverpool, New York, and Philadelphia Steamship Company claimants of the steamship "City of Paris," her tackle, &c., has lately appealed to the Supreme Court of the United States from

181 a decree lately rendered in the circuit court of the United States in the second circuit, in favor of you, the said Henry P. Simmons, John Russel, George Shepherd, Hesekiah W. Godfrey, John H. Allen, Robert C. Grace, Enoch Blackmore, John K. Clayton, and Charles Steward, against the said steamship "City of Paris," her tackle, &c., and has filed the security required by law; you are therefore hereby cited to appear before said Supreme Court, at the city of Washington, on the seventh day of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of Brooklyn, in the eastern district of New York, in the second circuit, the seventh day of November, in the year of our Lord eighteen hundred and sixty-eight, and of the independence of the United States the eighty-third.

CHAS. L. BENEDICT.

182 (Indorsed:) U. S. circuit court eastern district of New York. The Liverpool, New York, and Philadelphia Steamship Company, claimants of the steamer "City of Paris," &c., appellants, vs. Henry P. Simmons & al., libellants. Citation. J. W. Gerard, junior, proc. for appellants & claimants.

Due service admitted this 13th day of Nov., 1868.

OWEN, GREY & OWEN,
Proc's for Lib'lts & Appell'es.

Filed Nov. 13th, 1868.